

# Select Committee on Pension Policy

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## Executive Committee

**August 17, 2004**

9:30 - 10:00 AM

1:00 - 2:30 PM

Senate Conference Room A-B-C, Olympia

## AGENDA

- (A) **Today's Full Committee Meeting**
  - Rules of Procedure, Laura Harper, Sr. Research Analyst Legal
- (B) **OSA Budget**
  - Matt Smith, State Actuary
- (C) **Previous Issues**
  - **Age 70½**, Laura Harper
  - **Opt In/Opt Out**, Bob Baker, Sr. Research Analyst
- (D) **Contribution Rate Setting**
  - Matt Smith
- (E) **Action on Today's Issues**
  - Gain-sharing
  - Purchasing Power
  - Pension Funding Council Recommendations
- (F) **Post-retirement Employment – Proposals**
  - Representative Fromhold
- (G) **September Committee Meeting Agendas**
  - School District Payroll Reporting

**Representative Gary Alexander**

**Elaine M. Banks**

TRS Retirees

**Marty Brown, Director\***

Office of Financial Management

**Senator Don Carlson**

**John Charles, Director**

Department of Retirement Systems

**Representative Steve Conway\***

Vice Chair

**Richard Ford**

PERS Retirees

**Senator Karen Fraser\***

Chair

**Representative Bill Fromhold**

**Leland A. Goeke\***

TRS and SERS Employers

**Bob Keller**

PERS Actives

**Corky Mattingly**

PERS Employers

**Doug Miller**

PERS Employers

**Glenn Olson**

PERS Employers

**Representative Larry Crouse**

**Diane Rae**

TRS Actives

**Senator Debbie Regala**

**J. Pat Thompson**

PERS Actives

**David Westberg\***

SERS Actives

**\*Executive Committee**

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## AGENCY MISSION

The Office of the State Actuary strives to ensure public faith and confidence in the Washington state retirement systems by providing reliable actuarial analysis and expert knowledge of pension issues for the Legislative and Executive Branches of the State of Washington.

The Office of the State Actuary is an agency within the Legislative Branch, functioning on two levels:

- (1) The first functional level is that of actuary. This function requires specific professional and technical qualifications to apply the mathematical procedures utilized in the data analysis and recommendations necessary for valuations and periodic experience studies.

Valuations determine the fiscal status of a retirement system in order to know the funding required. They are prepared annually on each of the seven retirement systems funded by the state and administered by the Department of Retirement Systems.

Experience studies determine the validity of assumptions used for valuations and the adequacy of the funding system being utilized. These are prepared on five-year cycles. The Office provides an advisory and consulting role to the Legislature, Office of the Governor, Department of Retirement Systems and State Investment Board.

- (2) The second functional level is that of staff support to the Select Committee on Pension Policy. This function mirrors the activity performed by other legislative committees. That is, it researches issues or subject areas at the direction of the Select Committee, provides verbal and written testimony on its research findings, and prepares and/or evaluates proposed legislation.

## STATUTORY AUTHORITY

The powers and duties of the Office of State Actuary specified in RCW 44.44.040 are:

- “(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.
- (2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.
- (3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.
- (4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. . . . An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. . . .
- (5) Provide such actuarial services to the legislature as may be requested from time to time.
- (6) Provide staff and assistance to the committee established under RCW 41.04.276 [Select Committee on Pension Policy]." (Committee name added)
- (7) Provide actuarial assistance to the law enforcement officers' and fire fighters' plan 2 retirement board as provided in chapter 2, Laws of 2003. . . .”

The Select Committee on Pension Policy was established by Chapter 295, Laws of 2003, and codified in RCW 41.04.276, .278, and .281. These statutes state:

### RCW 41.04.276

- "(1) There is hereby created a joint committee on pension policy. The committee shall consist of :
  - (a) Eight members of the senate appointed by the president of the senate, four of whom shall be members of the majority party and four of whom shall be members of the minority party; and
  - (b) Eight members of the house of representatives appointed by the speaker, four of whom shall be members of the majority party and four of whom shall be members of the minority party. . . .
- (2) Each member's term of office shall run from the close of the session in which he or she was appointed until the close of the next regular session held in an

- odd-numbered year. . . .
- (3) The committee shall elect a chairperson and a vice-chairperson. . . .
  - (4) The committee shall establish an executive committee of four members including the chairperson and the vice-chairperson, representing the majority and minority caucuses of each house."

**RCW 41.04.278**

- "(1) The select committee on pension policy may form three function-specific subcommittees, as set forth under subsection (2) of this section, from the members under RCW 41.04.276(1) (a) through (e), as follows:
- "(a) A public safety subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e);
  - (b) An education subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e); and
  - (c) A state and local government subcommittee, with one retiree member under RCW 41.04.276(1)(d) and two members from each group under RCW 41.04.276(1) (a) through (c) and (e).

The retiree members may serve on more than one subcommittee to ensure representation on each subcommittee."

- "(2)(a) The public safety subcommittee shall focus on pension issues affecting public safety employees who are members of the law enforcement officers' and fire fighters' and Washington state patrol retirement systems.
- (b) The education subcommittee shall focus on pension issues affecting educational employees who are members of the public employees', teachers', and school employees' retirement systems.
  - (c) The state and local government subcommittee shall focus on pension issues affecting state and local government employees who are members of the public employees' retirement system."

**RCW 41.04.281**

"The select committee on pension policy shall has the following powers and duties:

- "(1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the legislature;
- (2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the legislature;
- (3) Consult with the chair and vice-chair on appointing members to the state actuary appointment committee upon the convening of the state actuary appointment committee established under RCW 44.44.013; and

## 035 Office of the State Actuary

- (4) Receive the results of the actuarial audits of the actuarial valuations and experience studies administered by the pension funding council pursuant to RCW 41.45.110. The select committee on pension policy shall study and make recommendations on changes to assumptions or contribution rates to the pension funding council prior to adoption of changes under RCW 41.45.030, 41.45.035, or 41.45.060."

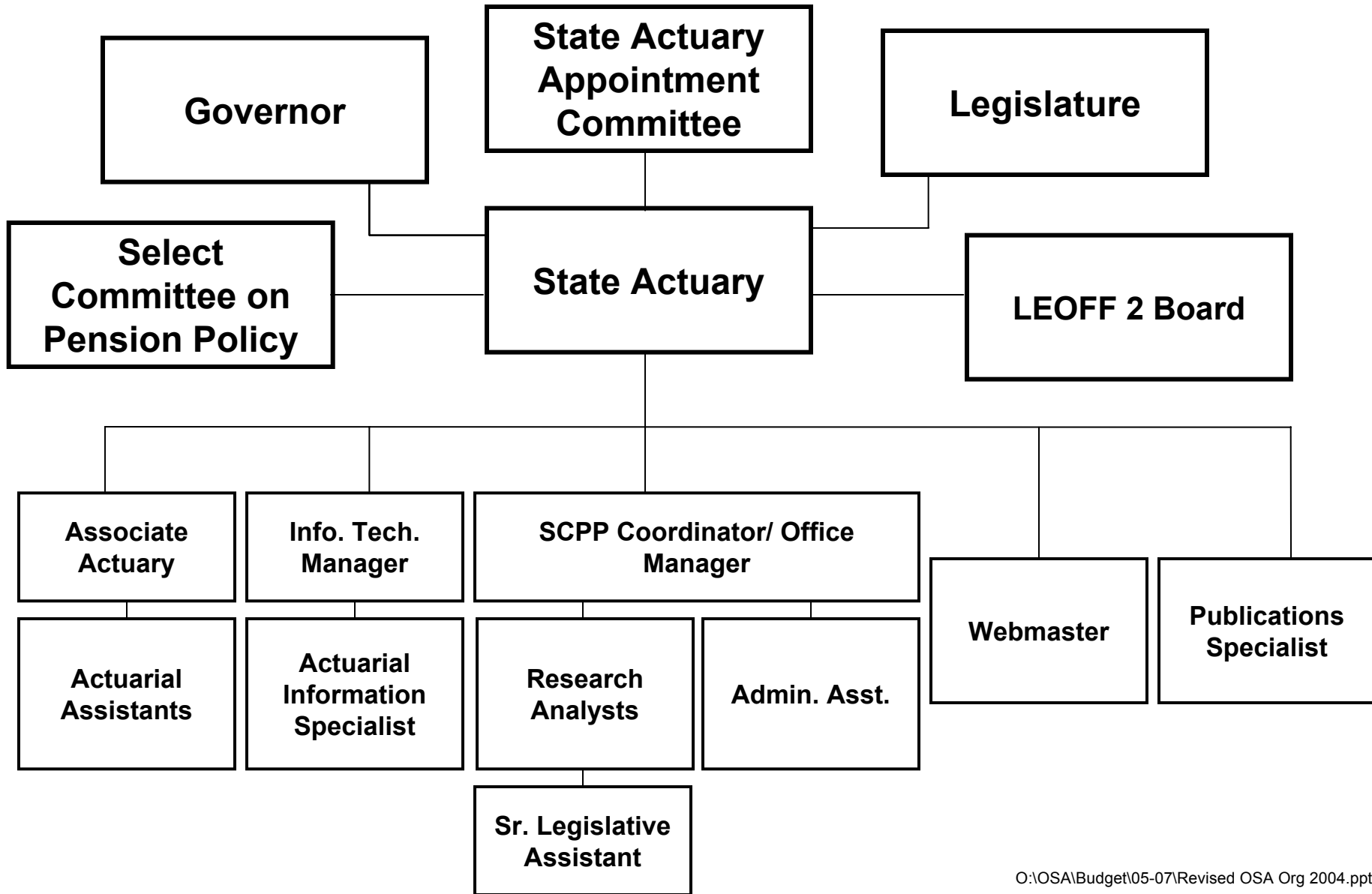
The present members of the Select Committee on Pension Policy are:

Representative Gary Alexander  
Elaine M. Banks, TRS Retirees  
Marty Brown, Director, Office of Financial Management\*  
Senator Don Carlson  
John Charles, Director, Department of Retirement Systems  
Representative Steve Conway, Vice Chair\*  
Representative Larry Crouse  
Richard Ford, PERS Retirees  
Senator Karen Fraser, Chair\*  
Representative Bill Fromhold  
Leland A. Goeke, TRS and SERS Employers\*  
Bob Keller, PERS Actives  
Corky Mattingly, PERS Employers  
Doug Miller, PERS Employers  
Glenn Olson, PERS Employers  
Diane Rae, TRS Actives  
Senator Debbie Regala  
J. Pat Thompson, PERS Actives  
David Westberg, SERS Actives\*

\* Member of the Executive Committee

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# Office of the State Actuary



**State of Washington  
Recommendation Summary**

**Agency: 035**

11:16:33AM  
7/29/2004

Dollars in Thousands	Annual Average FTEs	General		
		Fund State	Other Funds	Total Funds
<b>2003-05 Current Biennium Total</b>	<b>11.5</b>		<b>2,645</b>	<b>2,645</b>
CL 8I Self Insurance CF				
CL 8K Health Benefits CF			10	10
CL 9N Contractual Obligation Adj			30	30
CL 9Y Other ML Adjustments			15	15
<b>Total Carry Forward Level</b>	<b>11.5</b>		<b>2,700</b>	<b>2,700</b>
Percent Change from Current Biennium			2.1%	2.1%
<b>Carry Forward plus Workload Changes</b>	<b>11.5</b>		<b>2,700</b>	<b>2,700</b>
Percent Change from Current Biennium			2.1%	2.1%
M2 8X Self Insurance Premiums			(6)	(6)
M2 YY Merit Pay Increases			51	51
<b>Total Maintenance Level</b>	<b>11.5</b>		<b>2,745</b>	<b>2,745</b>
Percent Change from Current Biennium			3.8%	3.8%
PL AA Business Plan Consultant			8	8
PL BB Actuarial Valuation System			200	200
PL CC Publications Specialist	1.0		181	181
<b>Subtotal - Performance Level Changes</b>	<b>1.0</b>		<b>389</b>	<b>389</b>
<b>2005-07 Total Proposed Budget</b>	<b>12.5</b>		<b>3,134</b>	<b>3,134</b>
Percent Change from Current Biennium	8.7%		18.5%	18.5%

**M2 8X Self Insurance Premiums**

Decrease in Risk Management Premiums

**M2 YY Merit Pay Increases**

Funding is requested for annual merit pay increases consistent with legislative policy and procedures.

**PL AA Business Plan Consultant**

Funding is requested to hire a consultant to assist the Select Committee on Pension Policy develop a Business Plan.

**PL BB Actuarial Valuation System**

Funding is requested to replace the actuarial valuation software.

**PL CC Publications Specialist**

Funding is requested for a Publications Specialist position to continue our emphasis on improved communications and to assist with workload increases resulting from support of the newly-created Select Committee on Pension Policy.

# Select Committee on Pension Policy

## Age 70½

(August 10, 2004)

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### Issue

Allow members of PERS, SERS, and TRS plans 1, 2 and 3 who have attained age 70½ and meet the vesting requirements for their plans to apply for and receive retirement benefits without separating from service. Such individuals would continue to draw a salary but would cease active membership in their plans and would no longer accumulate service credit. The provision would not apply to state elected officials unless they leave elected office or are reappointed or reelected after the effective date of the act.

### Staff

Laura C. Harper, Sr. Research Analyst/Legal  
360-586-7616

### Members Impacted

This proposal would impact the 470 members of PERS, SERS and TRS plans 1, 2 and 3 who are still working at age 70½ and are eligible to receive benefits.

### Current Situation

Currently members of PERS, SERS, and TRS plans 1, 2 and 3 must separate from service in order to qualify for retirement.

### History

In 1988 the legislature changed the Judicial, Judges, LEOFF, TRS, PERS, and WSPRS systems to allow vested members to apply for their retirement benefit after reaching age 70½ without separating from service. The stated purpose of the change was to conform to federal tax law, and the new provision was codified as RCW 41.04.065. The provision also allowed members to continue making contributions and earning service credit while receiving their retirement allowance.

RCW 41.04.065 was repealed in 1991. Current federal law does not require the State of Washington to distribute a retirement benefit to a vested member of a qualified governmental plan who is still working and has reached the age of 70½.

During the 2002 Interim the Joint Committee recommended that members of PERS, SERS, and TRS plans 1, 2 and 3 who have attained age 70½ and meet the vesting requirements of their plan be allowed to apply for retirement benefits without requiring that they separate from service. However, this recommendation did not allow such retirees to continue to make contributions and earn service credit. This proposal was introduced during the 2003 session as SB 5093/HB 1209. The bill passed in the Senate but did not receive a hearing in the House. The SCPP did not recommend legislation on this issue in 2004, and no legislation was introduced.

### Policy Analysis

Members of Washington's various retirement plans are paid benefits in accordance with the minimum distribution rules of the Internal Revenue Code. Section 401(a)(9)(C) of the Code codifies the minimum distribution rules applicable to qualified governmental plans. These rules require such plans to begin making payments to members by no later than a participant's "required beginning date." The required beginning date for a participant in a governmental plan is the April 1 following the **later of** the calendar year in which the member reaches age 70½ or the calendar year in which the member retires.

With respect to the required beginning date, Washington's retirement plans meet the minimum distribution requirements of federal law. Thus the question before the committee is whether to grant an additional benefit to vested members who have reached age 70½.

**Options**

Only one option is proposed.

**Fiscal Impact of Options**

The cost of this bill is insufficient to affect contribution rates.

**Bill Draft**

See attachment.

**Fiscal Note (Draft)**

See attachment.

1       AN ACT Relating to allowing members of the teachers' retirement  
2 system, the school employees' retirement system, and the public  
3 employees' retirement system to begin receiving benefits without  
4 leaving service at age seventy and one-half; adding a new section to  
5 chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; and  
6 adding a new section to chapter 41.40 RCW.

7       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8       NEW SECTION.   **Sec. 1.** A new section is added to chapter 41.32 RCW  
9 under the subchapter heading "provisions applicable to plan 1, plan 2,  
10 and plan 3" to read as follows:

11       Upon attainment of age seventy and one-half, an employed member  
12 may, subject to this section, apply for the retirement benefit the  
13 member is otherwise eligible to receive and remain employed without  
14 reduction in their pension. The retirement benefit begins to accrue on  
15 the first day of the calendar month following the month that a member  
16 applies for a retirement benefit and has attained age seventy and one-  
17 half. The benefit shall be calculated in accordance with the rules of  
18 the member's plan, except that the member may continue to be employed.

1 Upon retirement, the retiree is no longer an active member and may not  
2 make contributions, nor receive service credit, for future periods of  
3 employment while receiving his or her retirement allowance.

4 This section does not apply to any member who is a state elected  
5 official on the effective date of this act, unless that member leaves  
6 elected office or is reappointed or reelected after the effective date  
7 of this act.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.35 RCW  
9 under the subchapter heading "provisions applicable to plan 2 and plan  
10 3" to read as follows:

11 Upon attainment of age seventy and one-half, an employed member  
12 may, subject to this section, apply for the retirement benefit the  
13 member is otherwise eligible to receive and remain employed without  
14 reduction in their pension. The retirement benefit begins to accrue on  
15 the first day of the calendar month following the month that a member  
16 applies for a retirement benefit and has attained age seventy and one-  
17 half. The benefit is calculated in accordance with the rules of the  
18 member's plan, except that the member may continue to be employed.  
19 Upon retirement, the retiree is no longer an active member and may not  
20 make contributions, nor receive service credit, for future periods of  
21 employment while receiving his or her retirement allowance.

22 This section does not apply to any member who is a state elected  
23 official on the effective date of this act, unless that member leaves  
24 elected office or is reappointed or reelected after the effective date  
25 of this act.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW  
27 under the subchapter heading "provisions applicable to plan 1, plan 2,  
28 and plan 3" to read as follows:

29 Upon attainment of age seventy and one-half, an employed member  
30 may, subject to this section, apply for the retirement benefit the  
31 member is otherwise eligible to receive and remain employed without  
32 reduction in their pension. The retirement benefit begins to accrue on  
33 the first day of the calendar month following the month that a member  
34 applies for a retirement benefit and has attained age seventy and one-  
35 half. The benefit shall be calculated in accordance with the rules of  
36 the member's plan, except that the member may continue to be employed.

1 Upon retirement, the retiree is no longer an active member and may not  
2 make contributions, nor receive service credit, for future periods of  
3 employment while receiving his or her retirement allowance.

4 This section does not apply to any member who is a state elected  
5 official on the effective date of this act, unless that member leaves  
6 elected office or is reappointed or reelected after the effective date  
7 of this act.

--- END ---

# FISCAL NOTE – DRAFT

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/09/03	Z-0941.1.1/04

## SUMMARY OF BILL:

This bill impacts all of the plans of the Teachers' Retirement System (TRS), the School Employees' Retirement System (SERS) and the Public Employees' Retirement System (PERS) by permitting vested members who attain age 70½ to apply to the Department of Retirement Systems to begin their benefits without requiring that they separate from service. Upon retirement an individual may continue to work but ceases active membership and no longer makes contributions nor receives service credit. Current state elected and appointed officials are exempt from this act unless they leave elected office, are reappointed or re-elected after the effective date of the act.

Effective Date: 90 days after session.

## CURRENT SITUATION:

Current law requires members of TRS, SERS, and PERS to retire before benefits begin regardless of age. This generally requires a member to first separate from service and then apply to the Department of Retirement Systems for retirement.

## MEMBERS IMPACTED:

We estimate that approximately 470 members are age 70½ and eligible to receive benefits.

## FISCAL IMPACT:

The cost of this bill is insufficient to affect contribution rates.

# Select Committee on Pension Policy

## Opt In - Opt Out

*(August 9, 2004)*

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### **Issue**

Unlike TRS 1 and LEOFF 1 members, PERS, SERS, TRS 2/3, or LEOFF 2 members who are eligible for retirement prior to serving in a State elective office, may not retire and begin receiving their retirement allowance while serving in State elective office.

### **Staff**

Robert Wm. Baker, Sr. Research Analyst  
360-586-9237

### **Members Impacted**

All members of PERS, SERS, TRS 2/3, or LEOFF 2 who hold state elective office. There are currently 139 state elective and appointed officials who are plan members without other public employment.

### **Current Situation**

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receiving their retirement benefits, regardless of age. TRS 1 is the exception in permitting state elected officials who are TRS 1 members, if otherwise eligible, to begin receiving their retirement benefit while serving in state elective office. The LEOFF 1 plan also allows retired members to work for any non-LEOFF employer without a reduction of their benefits.

### **History**

Companion bills HB 1201 and SB 5095 were introduced in the 2003 session. This legislation would have allowed PERS, SERS, TRS2/3, or LEOFF 2 members holding state elective office

the option, at the beginning of each term of office, of continuing active membership or retiring and beginning their retirement allowance. SB 5095 passed the Senate. HB 1201 did not receive a hearing.

The SCPP heard this issue in the 2003 interim and did not forward legislation.

### **Membership Analysis**

Membership and benefits for state elected officials vary by plan, and also vary from the regular members of those plans. Some plans have rules for local government elected officials and officials appointed directly by the Governor that are distinct from the state elected official rules.

Elected officials may, during their first term in office, apply for membership in PERS 2/3 or continue membership in their current plan. Members may generally continue to receive retirement benefits, or return to active membership from retirement upon entering office.

TRS 2/3 members are an exception to the general rule. They may take a leave of absence without pay from TRS 2/3 to serve in state elected office and be a member of no plan, or accumulate PERS 2/3 service during their term(s) of office. Upon return to active TRS service, a member that chose a leave of absence may purchase up to two years of TRS unpaid leave of absence service. With the exception of PERS 2/3, an individual must establish membership in the plan prior to entering an elected or appointed state office. PERS 2/3 is among those with different rules for state elected officials and Governor-appointed officials.

Regardless of the various membership requirements, all defined benefit plans administered by Washington State require members to be separated for one month before they may receive their retirement benefit.

### **Policy Analysis**

There are several retirement policies that may govern whether receiving a retirement allowance prior to having separated from employment is appropriate. One policy to which such a distribution may be in conflict states that "... retirement benefits are intended to provide income after leaving the workforce." As these members would not be leaving the workforce, such a distribution, on the surface, may not be appropriate.

Changes in post-retirement employment provisions have opened the door to more lenient interpretations of the above policy. The post-retirement employment provisions allow members to return to work for specific periods before their benefits are suspended. This would also appear to be in conflict with the above policy. But in light of the service-based retirement plan 1 design, and personnel shortages, legislative leeway was given to allow such distributions.

In addition to the above policy, other implicit retirement policy may provide direction on this issue. That policy states that all employees should have essentially the same retirement plans. As such, a provision available in one plan should also be available in others. Because TRS 1 and LEOFF 1 members are allowed to serve in state elective office while receiving their retirement benefits, it would follow that other plans should offer the same provision.

Another policy that appears to allow such distributions is not a State retirement policy but rather a policy applicable to private plans. That policy is age-based, allowing optional distributions after a member reaches age 70½ and requiring minimum distributions after a member retires or after age 70½ whichever occurs later.

### **Options**

The previous proposal recommended by the former Joint Committee on Pension Policy was to allow PERS, SERS, TRS 2/3, and LEOFF 2 members holding state elective office the option, at the beginning of each term of office, to continue active membership or to retire and begin receiving their retirement allowance.

**Bill (Draft)**

Available upon request

**Fiscal Note (Draft)**

Prior fiscal note attached

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
<b>Office of the State Actuary</b>	<b>035</b>	<b>1/24/03</b>	<b>SB 5095/HB 1201</b>

## SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System plan 2, the Public Employees Retirement System, the Teachers' Retirement System plan 2 and plan 3, and the School Employees' Retirement System by permitting members who are state elected officials to continue or resume membership, and if otherwise eligible, retire and begin their retirement allowance at the beginning of each term of office. A state elected official member who chooses to end membership at the beginning of a term of office shall neither make contributions nor earn service credit for the duration of that term.

Effective Date: 90 days after session.

## CURRENT SITUATION:

State elected official members of most Washington State Retirement Systems and plans must separate from service in order to retire and begin receipt of their retirement benefits regardless of age. While the rules for state elected officials vary by system and plan, the Teachers' Retirement System plan 1 is a notable distinction in permitting state elected officials, if otherwise eligible, to begin their retirement benefit while serving in state elective office.

## FISCAL IMPACT:

The cost of this bill is insufficient to affect contribution rates.

# Select Committee on Pension Policy

## Contribution Rate Setting

(July 2, 2004)

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### Issue

The Select Committee on Pension Policy (SCPP) identified “contribution rate stability” as one of the top four priorities of the SCPP at the May 2004 Orientation.

### Staff

Matt Smith, State Actuary  
360-753-9144

### Members Impacted

A change to the rate setting process would impact members differently depending on their retirement plan. The member contribution rate for PERS and TRS Plans 1 is fixed in statute at 6%. Currently, LEOFF Plan 1 is fully funded, so no member contributions are required at this time. Prior to 2000, the LEOFF 1 member rate was fixed at 6%.

Members of PERS, TRS and SERS Plans 3 do not contribute to the defined benefit portion of Plan 3 (the employer provided life annuity). Members in these plans, therefore, would not be impacted.

Members of PERS, TRS, SERS, LEOFF Plans 2 and the WSP retirement system share in the cost of their retirement benefit with their employer. Therefore, a change to the rate setting process would impact Plan 2 and WSP members. As of September 30, 2002, there were 162,664 members in the Plans 2 and WSP combined. Of this count, 116,939 come from PERS Plan 2.

### **Current Situation**

Provisions governing the current contribution rate setting process are codified under the Actuarial Funding Chapter - Chapter 41.45 RCW. In summary, these provisions provide for the systematic actuarial funding of the state retirement systems. Biennial actuarial valuations performed on odd-year valuation dates are the basis for contribution rate recommendations to the Pension Funding Council (PFC). Contribution rates adopted by the PFC in September of even-numbered years, referred to as “basic rates,” are effective during the ensuing biennium subject to revision by the Legislature. Temporary and “supplemental rates” are charged in addition to the basic rates to fund the cost of benefit enhancements that are granted by the Legislature in between the 2-year basic rate cycles.

### **History**

The Pension Funding Reform Act, Chapter 273, Laws of 1989, established a systematic actuarial funding process for the state retirement systems. Contribution rates under the initial Funding Reform Act were scheduled to remain in place for a 6-year period. Additionally, the current funding policy was established including the goal to fully amortize the plan 1 unfunded liability by June 30, 2024. Prior to the Funding Reform Act, pension contributions were subject to a discretionary appropriation by the Legislature.

Chapter 519, Laws of 1993, changed the 6-year cycle established in 1989 to a 2-year cycle. Beginning September 30, 1994, contribution rates were scheduled for adoption in September of even-numbered years and revisited every two years thereafter.

Chapter 11, Laws of 2001, E2, codified the asset smoothing method under law. The method was changed from a 3-year method, determined by the State Actuary, to a 4-year smoothing period established under law.

Chapter 11, Laws of 2003, E1, modified the asset smoothing method - allowing up to an 8-year smoothing period depending on the magnitude of the deviation between the actual investment return and what was assumed for the period.

Chapter 93, Laws of 2004, created a new asset smoothing corridor for valuations performed after July 1, 2004. Following the effective date of the new law, the actuarial or “smoothed” value of assets must not exceed 130% nor drop below 70% of the market value of assets at the valuation date.

### Actuarial Terms

The following table defines key actuarial terms that will be used throughout this report:

Term	Definition
<i>Actuarial Cost Method</i>	A procedure for allocating the actuarial present value of projected benefits and expenses to time periods, usually in the form of a normal cost and an actuarial accrued liability - <b>“the funding method.”</b>
<i>Normal Cost</i>	Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year - <b>“the cost of benefits in the current year under the funding method.”</b>
<i>Entry Age Normal Cost</i>	Normal cost calculated under the Entry Age Normal actuarial cost method.  The normal cost is determined by the contribution rate which, if collected from a new member’s entry date to retirement, would fully prefund their projected benefit - <b>“long-term annual cost of the plan if all assumptions are realized (no short term gains or losses.)”</b>

<b>Term</b>	<b>Definition</b>
<i>Amortization of Unfunded Actuarial Accrued Liability (UAAL)</i>	The method of funding the difference between the actuarial accrued liability and the actuarial value of assets, usually determined under the funding policy - <b>“method for paying off unfunded prior service liability.”</b>
<i>Asset Valuation Method</i>	A method selected by the actuary for smoothing the effects of short-term volatility in the market value of assets - <b>“the asset smoothing technique.”</b>
<i>Funding Policy</i>	The plan sponsor’s policy for determining the periodic contribution or cost for a plan - including the level of cost sharing between the employee and employer.

### Policy Analysis

#### **Current Funding Policy and Methods**

The funding policy of the Legislature is contained in Chapter 41.45 RCW - Actuarial Funding of State Retirement Systems. RCW 41.45.010 outlines the intent to achieve four funding goals. Three of the goals listed in that section specifically pertain to the issue of rate stability and are listed below:

- to continue to fully fund the plans 2/3;
- to fully amortize the total costs of the plans 1 not later than June 30, 2024; and
- to establish predictable long-term employer contribution rates which will remain a relatively constant proportion of future state budgets.

Certain actuarial methods were selected in order to attain these funding goals. These methods are listed below:

<b>Current Method</b>	<b>Description</b>
<i>Actuarial Cost Method</i>	Aggregate cost method for plans 2/3.
	Modified Entry Age Normal method for plans 1.
<i>Normal Cost</i>	Aggregate normal cost for plans 2/3. The normal cost is shared equally between the plan 2 employee and plan 2 employer.
	The plan 2/3 employer normal cost is used for the plan 1 employer normal cost. The plan 1 employee normal cost is fixed at 6%.
<i>Amortization of UAAL</i>	No UAAL under aggregate cost method.
	Plan 1 UAAL must be amortized by June 30, 2024 as a level percentage of projected system payroll.
<i>Asset Valuation Method</i>	Up to an 8-year smoothing period depending on the magnitude of the deviation between the actual and assumed investment return for the period.
	Smoothed value of assets may not exceed 130% nor drop below 70% of the market value of assets at the valuation date - "the smoothing corridor."

The aggregate cost method was selected to satisfy the goal of fully funding the plans 2/3. By definition, the aggregate cost method does not allow for an unfunded actuarial accrued liability (UAAL) to develop. The aggregate normal cost is determined as the level percentage of projected payroll that will fund the difference between the present value of projected benefits and the actuarial value of assets at the valuation date. As a result, any difference between the assets and the projected liability, due to short-term gains or losses, assumption changes or benefit enhancements, is automatically reflected in the

annual cost of the plan and not amortized as a separate component of plan cost. In absence of an effective asset smoothing method, the aggregate cost method can produce volatile contribution rates under certain investment market cycles.

Plan 1, on the other hand, has a separate employer amortization of existing UAAL and the unfunded prior service cost is spread over the projected payroll of the retirement system - including payroll for projected new entrants. This method was selected in deference to the magnitude of the financial obligation to completely amortize the plan 1 UAAL by June 30, 2024. Because the plan 2/3 employer normal cost is used for plan 1 employers, all employers within a retirement system are charged the same contribution rate, regardless of the plan in which their employees hold membership (except for LEOFF). The total employer contribution rate is equal to the plan 2/3 normal cost plus the plan 1 UAAL rate.

The current asset valuation method is intended to address the volatility of contribution rates under the aggregate cost method when used in combination with the existing asset allocation policy. The longer smoothing period employed under the current method for larger annual asset gains or losses will reduce the volatility of future contributions rates once they return to their expected long-term levels.

The current “asset smoothing corridor” provides a direct relationship between the actuarial or smoothed value of assets and the underlying market value of assets. The smoothing corridor ensures that the asset valuation method will produce a reasonable actuarial value of assets, and when used in combination with the actuarial cost method, will produce contributions rates that are dependable and adequate.

### *Rate Stability - Experience*

The current funding policies and methods are all independently reasonable. The end result, however, has produced contribution rates that have not been predictable and have not remained a relatively stable proportion of state budgets. This recent experience is partially explained by significant short-term volatility in the market and actuarial value of assets. Recent changes to the asset valuation method will improve rate stability in the future, but due to the timing of the asset method change, will not prevent significant increases in projected contribution rates. Had the current smoothing method been in place prior to the investment market run-up in the mid to late 1990's, the actuarial

value of assets would have been lower, and the actuarially required contribution rates at the time would have been higher. This would have resulted in the build-up of a temporary “asset reserve” that would have been available to offset the significant asset losses that followed. Given the magnitude of the short-term fluctuations in asset values, however, the new smoothing method would not have prevented the actuarially determined contribution rates from experiencing some degree of volatility.

The primary source of rate instability rests with the systematic use of annual actuarial valuation results under the current funding policy in absence of long-term expectations. The change from discretionary pension funding to systematic actuarial funding in 1989 increased the soundness of the actuarial funding of Washington’s pension systems, but it may have produced a system which overemphasizes short-term results. Under this funding policy, the selection or legislative prescription of certain actuarial assumptions and methods, namely the increase in the interest rate assumption in 2001 from 7.5% to 8% and the former asset valuation method, may have contributed to a shorter-term focus on actuarial results.

### Comparative Systems

The following table summarizes the contribution policies for Washington’s comparative systems as reported in the 2001 Survey of State and Local Government Employee Retirement Systems, Public Pension Coordination Council:

<b>Retirement System</b>	<b>Statutory Employer Rate?</b>	<b>Result of Actuarial Valuation?</b>
1. Washington PERS	No	Yes
2. City of Seattle	No*	Yes
3. Oregon	No	Yes
4. Idaho (PERSI)	No	Yes
5. CalPERS	No	Yes
6. CalSTRS	Yes	No
7. Colorado PERA	Yes	No
8. Florida Retirement System (FRS)	No	Yes
9. Iowa (IPERS)	Yes	No
10. Minnesota (General Employees)	Yes	No

11. Missouri (MOSERS)	No	Yes
12. Ohio (OPERS)	No	Yes

*\* Employer matches the statutorily fixed member contribution plus an “excess contribution” if the actuarially required contribution rate for the plan exceeds the member and matching employer contribution.*

The specific question in the Public Pension Coordination Council survey under contributions was: “How are employer contribution rates established?” Two response options were provided:

- statutorily at a specified rate; or
- result of actuarial valuation.

Most systems responded that employer contributions were established as a result of an actuarial valuation. Four systems, CalSTRS, Colorado PERA, IOWA PERS and the Minnesota Retirement System for general employees, responded that they have statutorily specified employer contribution rates.

### **Corridor Funding**

Several public retirement systems, including the City of Dallas and the Maryland State Retirement system, have modified their funding policies to incorporate what is referred to as “corridor funding.” There are two types of corridor funding:

- normal cost corridor; and
- funded ratio corridor.

Under a normal cost corridor approach, contribution rates are contained within a symmetric corridor, say 90%-110%, of the plan’s normal cost. The normal cost that is expected to provide 100% funding is established as the median point within the corridor.

Under a funded ratio corridor approach, contribution rates are fixed from one period to the next as long as the plan’s funded ratio remains within a specific corridor. For example, in Maryland the current employer contribution rate remains fixed provided the ratio of the plan’s assets to actuarial accrued liability remains between 90% and 110%.

### **Federal Law**

Section 412 of the Internal Revenue Code (IRC) specifies minimum funding rules for qualified private sector plans. An enrolled actuary must certify, on an annual basis, that a private-sector plan sponsor has contributed at least the minimum contribution to their pension plan in order for the plan to receive favorable tax treatment under the IRC. In summary, the minimum contribution is comprised of annual charges and credits under the actuarial cost method for the plan plus an additional funding charge for plans with funded ratios below 80% - based on market or “current liability” interest rates.

Because these rules are based, in part, on market interest rates, which tend to fluctuate from one period to the next, the federal laws governing minimum funding do not provide a good model for contribution rate stability. Government plans are exempt from these minimum funding rules.

### **Options**

Several options were discussed at the SCPP’s May 2004 orientation, including:

- minimum contribution rates;
- maximum rates of change from one period to the next; and
- statutorily fixed contribution rates.

Corridor funding is presented as an option exercised by other public retirement systems.

### **Analysis of Options**

The appropriate option will depend on the plan sponsor’s desire to balance several objectives:

- contribution rate stability;
- contribution rate adequacy; and
- the level of cost sharing between the employee and employer.

Minimum contribution rates that are adjusted upward for the cost of future benefit enhancements, funded equally by both employers and plan 2 employees, will provide adequate rates, maintain the current cost-sharing relationship in the plans 2, but would not be as stable and predictable as rates fixed in statute.

Statutorily fixed rates, on the other hand, may not provide adequate long-term funding of the promised benefits. The current level of employee and employer cost sharing in the plans 2 would be lost and the burden of funding future benefit enhancements or future unfunded liability would fall on the state.

The corridor funding approach would provide for greater rate stability, but likely at the expense of rate adequacy. A normal cost funding corridor would not fund the full actuarially required normal cost each year. A funded ratio corridor approach would also not fund the full actuarially required normal cost each year unless the plan falls outside the funded ratio corridor.

### **Recommendation of State Actuary**

- Establish a minimum plan 2/3 normal cost rate equal to 90% of the normal cost calculated under the entry age normal cost method effective once the aggregate plan 2/3 normal cost rate exceeds the entry age normal cost rate.
  - ▶ The entry age normal cost rate would increase to reflect the cost of future benefit enhancements once effective.
  - ▶ The employer normal cost would equal the plan 2/3 employee normal cost.
- Do not allow the plan 1 UAAL rate, charged to employers only, to decrease until the actuarial value of assets is at least 125% of the actuarial accrued liability.
  - ▶ Would not apply beyond the current amortization date of June 30, 2024.
  - ▶ Would not apply to LEOFF plan 1 unless the plan develops an unfunded actuarial accrued liability in the future.

The entry age normal cost represents the expected long-term annual cost of the plan from a member's entry date - if all assumptions are realized - and does not recognize the impact of any unfunded past liability. The aggregate normal cost is equivalent to the entry age normal cost with short-term gains or losses, at the valuation date, amortized over the expected working lifetime of the current active population. As a result, the aggregate normal cost can drift away from the entry age normal cost depending on the magnitude of short-term actuarial gains and losses. Successive and significant annual actuarial gains will push the aggregate normal cost rate below the entry age normal cost rate; whereas successive and significant annual actuarial losses will push the aggregate normal cost rate above entry age. The substantial investment gains of the mid to late 1990's caused the aggregate normal cost rates to drop well below the entry age rates. A minimum entry age normal cost rate will provide for greater rate stability in the future and, combined with the aggregate normal cost and the new asset smoothing method, will support the objective of contribution rate adequacy and continuing to fully fund the plans 2/3.

The following table compares current and projected employer normal cost (NC) rates under the aggregate method with current average entry age normal cost rates. With the exception of WSP, normal cost rates under the aggregate method are projected to exceed 90% of the average entry age normal cost rate by 2009-11 for all systems listed in the table. This cross-over point is projected to occur at the start of the 2011-13 biennium for WSP.

<b>Employer Normal Cost Rates</b>			
<b>System</b>	<b>Current Aggregate NC*</b>	<b>Average Entry Age NC**</b>	<b>Projected 09-11 Aggregate NC</b>
PERS 2/3	2.63%	4.45%	4.90%
TRS 2/3	1.71%	5.44%	5.01%
SERS 2/3	2.49%	4.72%	5.39%
LEOFF 2	6.41%	8.37%	8.53%
WSP	0.00%	10.51%	8.93%

\* From the results of an actuarial valuation performed at 9/30/2002. Contribution rates currently charged to employers are based on the results of an actuarial valuation performed at 9/30/2001 and restated for Chapter 11, Laws of 2003, E1.

\*\* From the results of an actuarial valuation performed at 9/30/2002. Based on current mix of active participants and current plan provisions.

The balance between contribution rate stability and adequacy is a bit more complicated under the plans 1 with unfunded past liabilities. For these closed plans, it may be advisable to err on the side of rate adequacy as opposed to rate stability since these plans are rapidly approaching 100% annuitant or inactive status and are currently in a deficit funding position. The 125% funded ratio trigger should increase the likelihood that once amortized, the plan 1 unfunded actuarial accrued liability will not re-emerge. As an example, contributions to the LEOFF plan 1 UAAL stopped in 2000 when the funded ratio, the value of plan assets divided by actuarial accrued liability, reached 136%. In other words, at that time, LEOFF plan 1 had \$1.36 in actuarial assets for each dollar of accrued liability. As of September 30, 2002, the LEOFF 1 funded ratio had dropped to 119% and is projected to decline for the next several biennia.

The following two tables display projected UAAL rates and projected funded ratios for PERS 1 and TRS 1. The projections are based on actual investment performance through August 31, 2003 and 8% assumed annual investment return thereafter (current long-term actuarial assumption). Short-term investment experience will vary from the long-term actuarial assumption of 8%.

For both PERS and TRS Plans 1, the unfunded actuarial accrued liability (UAAL) is projected to re-emerge following the investment losses of 2000 through 2002. These investment losses largely offset the investment gains of the previous period. As a result, funded ratios for both PERS and TRS plans 1 are projected to decline in the short term, returning to their former levels, and then increase to 100% by the amortization date of June 30, 2024.

<b>PERS - Projected UAAL Rates</b>		
<b>Period</b>	<b>Plan 1 UAAL Rate</b>	<b>Funded Ratio</b>
Current*	0.00%	92%
05-07	1.66%	85%-90%
07-09	2.26%	75%-80%
09-11	2.81%	65%-70%
11-13	3.19%	60%-65%
21-23	3.19%	100%

\* Chapter 11, Laws of 2003, E1, suspended payments towards the plan 1 unfunded liability.

<b>TRS - Projected UAAL Rates</b>		
<b>Period</b>	<b>Plan 1 UAAL Rate</b>	<b>Funded Ratio</b>
Current*	0.00%	98%
05-07	1.97%	90%-95%
07-09	3.77%	80%-85%
09-11	5.37%	65%-70%
11-13	6.42%	60%-65%
21-23	6.42%	100%

\* Chapter 11, Laws of 2003, E1, suspended payments towards the plan 1 unfunded liability.

A rate ceiling or statutorily fixed rates are not recommended for either the normal cost or the plan 1 UAAL rates since it could impact the adequacy of future contribution rates. For example, it may become necessary to increase contribution rates beyond a ceiling for the cost of future benefit enhancements or if the plan experiences unforeseen actuarial losses in the future.

## Summary

Current funding policy outlines the intent to achieve a goal of stable and predictable contribution rates and to continue to fully fund the plans 2/3. Certain actuarial assumptions and methods were selected to achieve these goals. The current funding policies and methods are all independently reasonable. The end result, however, has produced contribution rates that have not been predictable and have not remained a relatively stable proportion of state budgets. This experience is partially explained by recent volatility in the investment markets. The primary source of rate instability rests with the systematic use of annual actuarial valuation results under the current funding policy in absence of long-term expectations.

Several options and recommendations are presented to address the issue of contribution rate stability. The appropriate option will depend on the plan sponsor's desire to balance several objectives:

- ▶ contribution rate stability;
- ▶ contribution rate adequacy; and
- ▶ the level of cost sharing between the employee and employer.

In the case of PERS and TRS plans 1, closed systems with unfunded prior service liability, the objective of contribution rate adequacy may trump the desire for complete rate stability.

# Select Committee on Pension Policy

## Post-retirement Employment Bill Comparison

(August 5, 2004)

Provision	HB 2640	DRAFT A	DRAFT B	DRAFT C	DRAFT D
TRS Waiting Period # 1	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours	1 month/ 867 hours
TRS Waiting Period # 2	1.5 months/ 1500 hours	1.5 months /1500 hours	1.5 months/ 1500 hours	1.5 months/ 1500 hours	1.5 months/ 1500 hours
TRS Need	Justify	Justify	Justify	Justify	Justify
TRS Process	Established process	Established process	Established process	Established process	Established process
TRS Hiring Records	Employer retains	Employer retains	Employer retains	Employer retains	Employer retains
TRS Contract Right	867 hours	867 hours	867 hours	867 hours	867 hours
TRS Annual Limit	1500 hours	1500 hours	1500 hours	1500 hours	1500 hours
TRS Cum. Limit Beyond 867 Annually	1900 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act	3165 hours after effective date of act
TRS Separation from Service	No oral or written agreements	<i>Current law - no written agreements</i>	No oral or written agreements	No oral or written agreements; "mere inquiries" OK	No oral or written agreements; "mere inquiries" OK
TRS Penalty	<i>Current law - felony</i>	<i>Current law - felony</i>	Gross Misdemeanor	Gross Misdemeanor	Gross Misdemeanor
PERS Clarify Separation from Service	-	-	-	-	"Mere inquiries" OK
PERS Cum. Limit Beyond 867 Annually	<i>Current law - 1900 hours since 2001 act</i>	<i>Current law - 1900 hours since 2001 act</i>	<i>Current law - 1900 hours since 2001 act</i>	<i>Current law - 1900 hours since 2001 act</i>	3165 hours after effective date of act

DRAFT VERSION "D"

- ADDS THE SAME GENERAL HIRING QUALIFICATIONS TO TRS 1 AS WERE ADDED TO PERS 1.
- MAKES THE LENGTH OF SEPARATION REQUIREMENT 45 DAYS FOR TRS, RATHER THAN THE 90 DAYS FOR PERS 1.
- ADDS A NEW SUBSECTION TO FALSE CLAIMS PROVISION IN TRS, MAKING APPLYING FOR RETIREMENT ALLOWANCE WITHOUT SEPARATING FROM SERVICE POTENTIALLY A GROSS MISDEMEANOR AS IN PERS.
- TRS SEPARATION FROM SERVICE DEFINITION IS MADE TO MATCH PERS, AND LANGUAGE IS ADDED TO BOTH PERS AND TRS CLARIFYING WHAT CONSTITUTES AN AGREEMENT.
- CUMULATIVE LIMIT OF 5 YEARS OF EXCESS OVER 867 (3165 HOURS) AFTER EFFECTIVE DATE OF ACT ADDED TO TRS, AND PERS CUMULATIVE LIMIT IS INCREASED TO 5 YEARS PROSPECTIVE FROM THE CURRENT LAW OF 3 YEARS.

1       AN ACT Relating to postretirement employment for members of the  
2 public employees' retirement system plan 1 and the teachers' retirement  
3 system plan 1; and amending RCW 41.32.010, 41.32.055, 41.32.570,  
4 41.40.010, 41.40.037, 41.40.055.

5       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
7 as follows:

8       As used in this chapter, unless a different meaning is plainly  
9 required by the context:

10       (1)(a) "Accumulated contributions" for plan 1 members, means the  
11 sum of all regular annuity contributions and, except for the purpose of  
12 withdrawal at the time of retirement, any amount paid under RCW  
13 41.50.165(2) with regular interest thereon.

14       (b) "Accumulated contributions" for plan 2 members, means the sum  
15 of all contributions standing to the credit of a member in the member's  
16 individual account, including any amount paid under RCW 41.50.165(2),  
17 together with the regular interest thereon.

1       (2) "Actuarial equivalent" means a benefit of equal value when  
2       computed upon the basis of such mortality tables and regulations as  
3       shall be adopted by the director and regular interest.

4       (3) "Annuity" means the moneys payable per year during life by  
5       reason of accumulated contributions of a member.

6       (4) "Member reserve" means the fund in which all of the accumulated  
7       contributions of members are held.

8       (5)(a) "Beneficiary" for plan 1 members, means any person in  
9       receipt of a retirement allowance or other benefit provided by this  
10      chapter.

11      (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
12      in receipt of a retirement allowance or other benefit provided by this  
13      chapter resulting from service rendered to an employer by another  
14      person.

15      (6) "Contract" means any agreement for service and compensation  
16      between a member and an employer.

17      (7) "Creditable service" means membership service plus prior  
18      service for which credit is allowable. This subsection shall apply  
19      only to plan 1 members.

20      (8) "Dependent" means receiving one-half or more of support from a  
21      member.

22      (9) "Disability allowance" means monthly payments during  
23      disability. This subsection shall apply only to plan 1 members.

24      (10)(a) "Earnable compensation" for plan 1 members, means:

25      (i) All salaries and wages paid by an employer to an employee  
26      member of the retirement system for personal services rendered during  
27      a fiscal year. In all cases where compensation includes maintenance  
28      the employer shall fix the value of that part of the compensation not  
29      paid in money.

30      (ii) For an employee member of the retirement system teaching in an  
31      extended school year program, two consecutive extended school years, as  
32      defined by the employer school district, may be used as the annual  
33      period for determining earnable compensation in lieu of the two fiscal  
34      years.

1 (iii) "Earnable compensation" for plan 1 members also includes the  
2 following actual or imputed payments, which are not paid for personal  
3 services:

4 (A) Retroactive payments to an individual by an employer on  
5 reinstatement of the employee in a position, or payments by an employer  
6 to an individual in lieu of reinstatement in a position which are  
7 awarded or granted as the equivalent of the salary or wages which the  
8 individual would have earned during a payroll period shall be  
9 considered earnable compensation and the individual shall receive the  
10 equivalent service credit.

11 (B) If a leave of absence, without pay, is taken by a member for  
12 the purpose of serving as a member of the state legislature, and such  
13 member has served in the legislature five or more years, the salary  
14 which would have been received for the position from which the leave of  
15 absence was taken shall be considered as compensation earnable if the  
16 employee's contribution thereon is paid by the employee. In addition,  
17 where a member has been a member of the state legislature for five or  
18 more years, earnable compensation for the member's two highest  
19 compensated consecutive years of service shall include a sum not to  
20 exceed thirty-six hundred dollars for each of such two consecutive  
21 years, regardless of whether or not legislative service was rendered  
22 during those two years.

23 (iv) For members employed less than full time under written  
24 contract with a school district, or community college district, in an  
25 instructional position, for which the member receives service credit of  
26 less than one year in all of the years used to determine the earnable  
27 compensation used for computing benefits due under RCW 41.32.497,  
28 41.32.498, and 41.32.520, the member may elect to have earnable  
29 compensation defined as provided in RCW 41.32.345. For the purposes of  
30 this subsection, the term "instructional position" means a position in  
31 which more than seventy-five percent of the member's time is spent as  
32 a classroom instructor (including office hours), a librarian, or a  
33 counselor. Earnable compensation shall be so defined only for the  
34 purpose of the calculation of retirement benefits and only as necessary  
35 to insure that members who receive fractional service credit under RCW

1 41.32.270 receive benefits proportional to those received by members  
2 who have received full-time service credit.

3 (v) "Earnable compensation" does not include:

4 (A) Remuneration for unused sick leave authorized under RCW  
5 41.04.340, 28A.400.210, or 28A.310.490;

6 (B) Remuneration for unused annual leave in excess of thirty days  
7 as authorized by RCW 43.01.044 and 43.01.041.

8 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
9 salaries or wages earned by a member during a payroll period for  
10 personal services, including overtime payments, and shall include wages  
11 and salaries deferred under provisions established pursuant to sections  
12 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
13 shall exclude lump sum payments for deferred annual sick leave, unused  
14 accumulated vacation, unused accumulated annual leave, or any form of  
15 severance pay.

16 "Earnable compensation" for plan 2 and plan 3 members also includes  
17 the following actual or imputed payments which, except in the case of  
18 (b)(ii)(B) of this subsection, are not paid for personal services:

19 (i) Retroactive payments to an individual by an employer on  
20 reinstatement of the employee in a position or payments by an employer  
21 to an individual in lieu of reinstatement in a position which are  
22 awarded or granted as the equivalent of the salary or wages which the  
23 individual would have earned during a payroll period shall be  
24 considered earnable compensation, to the extent provided above, and the  
25 individual shall receive the equivalent service credit.

26 (ii) In any year in which a member serves in the legislature the  
27 member shall have the option of having such member's earnable  
28 compensation be the greater of:

29 (A) The earnable compensation the member would have received had  
30 such member not served in the legislature; or

31 (B) Such member's actual earnable compensation received for  
32 teaching and legislative service combined. Any additional  
33 contributions to the retirement system required because compensation  
34 earnable under (b)(ii)(A) of this subsection is greater than  
35 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
36 by the member for both member and employer contributions.

1 (11) "Employer" means the state of Washington, the school district,  
2 or any agency of the state of Washington by which the member is paid.

3 (12) "Fiscal year" means a year which begins July 1st and ends June  
4 30th of the following year.

5 (13) "Former state fund" means the state retirement fund in  
6 operation for teachers under chapter 187, Laws of 1923, as amended.

7 (14) "Local fund" means any of the local retirement funds for  
8 teachers operated in any school district in accordance with the  
9 provisions of chapter 163, Laws of 1917 as amended.

10 (15) "Member" means any teacher included in the membership of the  
11 retirement system. Also, any other employee of the public schools who,  
12 on July 1, 1947, had not elected to be exempt from membership and who,  
13 prior to that date, had by an authorized payroll deduction, contributed  
14 to the member reserve.

15 (16) "Membership service" means service rendered subsequent to the  
16 first day of eligibility of a person to membership in the retirement  
17 system: PROVIDED, That where a member is employed by two or more  
18 employers the individual shall receive no more than one service credit  
19 month during any calendar month in which multiple service is rendered.  
20 The provisions of this subsection shall apply only to plan 1 members.

21 (17) "Pension" means the moneys payable per year during life from  
22 the pension reserve.

23 (18) "Pension reserve" is a fund in which shall be accumulated an  
24 actuarial reserve adequate to meet present and future pension  
25 liabilities of the system and from which all pension obligations are to  
26 be paid.

27 (19) "Prior service" means service rendered prior to the first date  
28 of eligibility to membership in the retirement system for which credit  
29 is allowable. The provisions of this subsection shall apply only to  
30 plan 1 members.

31 (20) "Prior service contributions" means contributions made by a  
32 member to secure credit for prior service. The provisions of this  
33 subsection shall apply only to plan 1 members.

34 (21) "Public school" means any institution or activity operated by  
35 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and  
2 Washington State University.

3 (22) "Regular contributions" means the amounts required to be  
4 deducted from the compensation of a member and credited to the member's  
5 individual account in the member reserve. This subsection shall apply  
6 only to plan 1 members.

7 (23) "Regular interest" means such rate as the director may  
8 determine.

9 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
10 payments based on the sum of annuity and pension, or any optional  
11 benefits payable in lieu thereof.

12 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
13 monthly payments to a retiree or beneficiary as provided in this  
14 chapter.

15 (25) "Retirement system" means the Washington state teachers'  
16 retirement system.

17 (26)(a) "Service" for plan 1 members means the time during which a  
18 member has been employed by an employer for compensation.

19 (i) If a member is employed by two or more employers the individual  
20 shall receive no more than one service credit month during any calendar  
21 month in which multiple service is rendered.

22 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
23 sick leave may be creditable as service solely for the purpose of  
24 determining eligibility to retire under RCW 41.32.470.

25 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
26 state retirement system that covers teachers in public schools may be  
27 applied solely for the purpose of determining eligibility to retire  
28 under RCW 41.32.470.

29 (b) "Service" for plan 2 and plan 3 members, means periods of  
30 employment by a member for one or more employers for which earnable  
31 compensation is earned subject to the following conditions:

32 (i) A member employed in an eligible position or as a substitute  
33 shall receive one service credit month for each month of September  
34 through August of the following year if he or she earns earnable  
35 compensation for eight hundred ten or more hours during that period and  
36 is employed during nine of those months, except that a member may not

1 receive credit for any period prior to the member's employment in an  
2 eligible position except as provided in RCW 41.32.812 and 41.50.132;

3 (ii) If a member is employed either in an eligible position or as  
4 a substitute teacher for nine months of the twelve month period between  
5 September through August of the following year but earns earnable  
6 compensation for less than eight hundred ten hours but for at least six  
7 hundred thirty hours, he or she will receive one-half of a service  
8 credit month for each month of the twelve month period;

9 (iii) All other members in an eligible position or as a substitute  
10 teacher shall receive service credit as follows:

11 (A) A service credit month is earned in those calendar months where  
12 earnable compensation is earned for ninety or more hours;

13 (B) A half-service credit month is earned in those calendar months  
14 where earnable compensation is earned for at least seventy hours but  
15 less than ninety hours; and

16 (C) A quarter-service credit month is earned in those calendar  
17 months where earnable compensation is earned for less than seventy  
18 hours.

19 (iv) Any person who is a member of the teachers' retirement system  
20 and who is elected or appointed to a state elective position may  
21 continue to be a member of the retirement system and continue to  
22 receive a service credit month for each of the months in a state  
23 elective position by making the required member contributions.

24 (v) When an individual is employed by two or more employers the  
25 individual shall only receive one month's service credit during any  
26 calendar month in which multiple service for ninety or more hours is  
27 rendered.

28 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
29 sick leave may be creditable as service solely for the purpose of  
30 determining eligibility to retire under RCW 41.32.470. For purposes of  
31 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
32 to two service credit months. Use of less than forty-five days of sick  
33 leave is creditable as allowed under this subsection as follows:

34 (A) Less than eleven days equals one-quarter service credit month;

35 (B) Eleven or more days but less than twenty-two days equals one-  
36 half service credit month;

1 (C) Twenty-two days equals one service credit month;  
2 (D) More than twenty-two days but less than thirty-three days  
3 equals one and one-quarter service credit month;  
4 (E) Thirty-three or more days but less than forty-five days equals  
5 one and one-half service credit month.  
6 (vii) As authorized in RCW 41.32.065, service earned in an out-of-  
7 state retirement system that covers teachers in public schools may be  
8 applied solely for the purpose of determining eligibility to retire  
9 under RCW 41.32.470.  
10 (viii) The department shall adopt rules implementing this  
11 subsection.  
12 (27) "Service credit year" means an accumulation of months of  
13 service credit which is equal to one when divided by twelve.  
14 (28) "Service credit month" means a full service credit month or an  
15 accumulation of partial service credit months that are equal to one.  
16 (29) "Teacher" means any person qualified to teach who is engaged  
17 by a public school in an instructional, administrative, or supervisory  
18 capacity. The term includes state, educational service district, and  
19 school district superintendents and their assistants and all employees  
20 certificated by the superintendent of public instruction; and in  
21 addition thereto any full time school doctor who is employed by a  
22 public school and renders service of an instructional or educational  
23 nature.  
24 (30) "Average final compensation" for plan 2 and plan 3 members,  
25 means the member's average earnable compensation of the highest  
26 consecutive sixty service credit months prior to such member's  
27 retirement, termination, or death. Periods constituting authorized  
28 leaves of absence may not be used in the calculation of average final  
29 compensation except under RCW 41.32.810(2).  
30 (31) "Retiree" means any person who has begun accruing a retirement  
31 allowance or other benefit provided by this chapter resulting from  
32 service rendered to an employer while a member.  
33 (32) "Department" means the department of retirement systems  
34 created in chapter 41.50 RCW.  
35 (33) "Director" means the director of the department.

1 (34) "State elective position" means any position held by any  
2 person elected or appointed to statewide office or elected or appointed  
3 as a member of the legislature.

4 (35) "State actuary" or "actuary" means the person appointed  
5 pursuant to RCW 44.44.010(2).

6 (36) "Substitute teacher" means:

7 (a) A teacher who is hired by an employer to work as a temporary  
8 teacher, except for teachers who are annual contract employees of an  
9 employer and are guaranteed a minimum number of hours; or

10 (b) Teachers who either (i) work in ineligible positions for more  
11 than one employer or (ii) work in an ineligible position or positions  
12 together with an eligible position.

13 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
14 through September 1, 1991, means a position which normally requires two  
15 or more uninterrupted months of creditable service during September  
16 through August of the following year.

17 (b) "Eligible position" for plan 2 and plan 3 on and after  
18 September 1, 1991, means a position that, as defined by the employer,  
19 normally requires five or more months of at least seventy hours of  
20 earnable compensation during September through August of the following  
21 year.

22 (c) For purposes of this chapter an employer shall not define  
23 "position" in such a manner that an employee's monthly work for that  
24 employer is divided into more than one position.

25 (d) The elected position of the superintendent of public  
26 instruction is an eligible position.

27 (38) "Plan 1" means the teachers' retirement system, plan 1  
28 providing the benefits and funding provisions covering persons who  
29 first became members of the system prior to October 1, 1977.

30 (39) "Plan 2" means the teachers' retirement system, plan 2  
31 providing the benefits and funding provisions covering persons who  
32 first became members of the system on and after October 1, 1977, and  
33 prior to July 1, 1996.

34 (40) "Plan 3" means the teachers' retirement system, plan 3  
35 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who  
2 transfer under RCW 41.32.817.

3 (41) "Index" means, for any calendar year, that year's annual  
4 average consumer price index, Seattle, Washington area, for urban wage  
5 earners and clerical workers, all items compiled by the bureau of labor  
6 statistics, United States department of labor.

7 (42) "Index A" means the index for the year prior to the  
8 determination of a postretirement adjustment.

9 (43) "Index B" means the index for the year prior to index A.

10 (44) "Index year" means the earliest calendar year in which the  
11 index is more than sixty percent of index A.

12 (45) "Adjustment ratio" means the value of index A divided by index  
13 B.

14 (46) "Annual increase" means, initially, fifty-nine cents per month  
15 per year of service which amount shall be increased each July 1st by  
16 three percent, rounded to the nearest cent.

17 (47) "Member account" or "member's account" for purposes of plan 3  
18 means the sum of the contributions and earnings on behalf of the member  
19 in the defined contribution portion of plan 3.

20 (48) "Separation from service or employment" occurs when a person  
21 has terminated all employment with an employer. Separation from  
22 service or employment does not occur, and if claimed by an employer or  
23 employee may be a violation of RCW 41.32.055, when an employee and  
24 employer have a written or oral agreement to resume employment with the  
25 same employer following termination. Mere expressions or inquiries  
26 about post-retirement employment by an employer or employee that do not  
27 constitute a commitment to re-employ the employee after retirement is  
28 not an agreement under this subsection that prevents separation from  
29 service occurring.

30 (49) "Employed" or "employee" means a person who is providing  
31 services for compensation to an employer, unless the person is free  
32 from the employer's direction and control over the performance of work.  
33 The department shall adopt rules and interpret this subsection  
34 consistent with common law.

1       **Sec. 2.** RCW 41.32.055 and 2003 c 53 s 218 are each amended to read  
2 as follows:

3       (1) Any person who shall knowingly make false statements or shall  
4 falsify or permit to be falsified any record or records of the  
5 retirement system, except as specified in subsection (2) of this  
6 section, in any attempt to defraud such system as a result of such act,  
7 is guilty of a class B felony punishable according to chapter 9A.20  
8 RCW.

9       (2) Any person who shall knowingly make false statements or shall  
10 falsify or permit to be falsified any record or records of the  
11 retirement systems related to a member's separation from service and  
12 qualification for a retirement allowance under RCW 41.32.480 in any  
13 attempt to defraud such system as a result of such act, is guilty of a  
14 gross misdemeanor. Mere expressions or inquiries about post-retirement  
15 employment by an employer or employee that do not constitute a  
16 commitment to re-employ the employee after retirement do not constitute  
17 an agreement under this subsection.

18       **Sec. 3.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read  
19 as follows:

20       (1)(a) If a retiree enters employment with an employer sooner than  
21 one calendar month after his or her accrual date, the retiree's monthly  
22 retirement allowance will be reduced by five and one-half percent for  
23 every seven hours worked during that month. This reduction will be  
24 applied each month until the retiree remains absent from employment  
25 with an employer for one full calendar month.

26       (b) The benefit reduction provided in (a) of this subsection will  
27 accrue for a maximum of one hundred forty hours per month. Any monthly  
28 benefit reduction over one hundred percent will be applied to the  
29 benefit the retiree is eligible to receive in subsequent months.

30       (2) Except as provided in subsection (3) of this section, any  
31 retired teacher or retired administrator who enters service in any  
32 public educational institution in Washington state ((and who has  
33 satisfied the break in employment requirement of subsection (1) of this  
34 section)) at least one calendar month after his or her accrual date  
35 shall cease to receive pension payments while engaged in such service,

1 after the retiree has rendered service for more than (~~one thousand~~  
2 ~~five hundred~~) eight hundred sixty-seven hours in a school year.

3 (3) Any retired teacher or retired administrator who enters service  
4 in any public educational institution in Washington state one and one-  
5 half calendar months or more after his or her accrual date and:

6 (a) Is hired into a position for which the school board has  
7 documented a justifiable need to hire a retiree into the position;

8 (b) Is hired through the established process for the position with  
9 the approval of the school board or other highest decision-making  
10 authority of the prospective employer;

11 (c) The employer retains records of the procedures followed and the  
12 decisions made in hiring the retired teacher or retired administrator  
13 and provides those records in the event of an audit; and

14 (d) The employee has not already rendered a cumulative total of  
15 more than three thousand one hundred sixty-five hours of service while  
16 receiving pension payments beyond an annual threshold of eight hundred  
17 sixty-seven hours;

18 shall cease to receive pension payments while engaged in that service  
19 after the retiree has rendered service for more than one thousand five  
20 hundred hours in a school year. The cumulative total limitations under  
21 this subsection apply prospectively after the effective date of this  
22 act.

23 (4) When a retired teacher or administrator renders service beyond  
24 eight hundred sixty-seven hours, the department shall collect from the  
25 employer the applicable employer retirement contributions for the  
26 entire duration of the member's employment during that fiscal year.

27 (3) The department shall collect and provide the state actuary with  
28 information relevant to the use of this section for the select  
29 committee on pension policy.

30 (4) The legislature reserves the right to amend or repeal this  
31 section in the future and no member or beneficiary has a contractual  
32 right to be employed for more than (~~five hundred twenty-five~~) eight  
33 hundred sixty-seven hours per year without a reduction of his or her  
34 pension.

1       **Sec. 4.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read  
2 as follows:

3       As used in this chapter, unless a different meaning is plainly  
4 required by the context:

5       (1) "Retirement system" means the public employees' retirement  
6 system provided for in this chapter.

7       (2) "Department" means the department of retirement systems created  
8 in chapter 41.50 RCW.

9       (3) "State treasurer" means the treasurer of the state of  
10 Washington.

11       (4)(a) "Employer" for plan 1 members, means every branch,  
12 department, agency, commission, board, and office of the state, any  
13 political subdivision or association of political subdivisions of the  
14 state admitted into the retirement system, and legal entities  
15 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
16 term shall also include any labor guild, association, or organization  
17 the membership of a local lodge or division of which is comprised of at  
18 least forty percent employees of an employer (other than such labor  
19 guild, association, or organization) within this chapter. The term may  
20 also include any city of the first class that has its own retirement  
21 system.

22       (b) "Employer" for plan 2 and plan 3 members, means every branch,  
23 department, agency, commission, board, and office of the state, and any  
24 political subdivision and municipal corporation of the state admitted  
25 into the retirement system, including public agencies created pursuant  
26 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
27 31, 2000, school districts and educational service districts will no  
28 longer be employers for the public employees' retirement system plan 2.

29       (5) "Member" means any employee included in the membership of the  
30 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
31 does not prohibit a person otherwise eligible for membership in the  
32 retirement system from establishing such membership effective when he  
33 or she first entered an eligible position.

34       (6) "Original member" of this retirement system means:

35       (a) Any person who became a member of the system prior to April 1,  
36 1949;

1 (b) Any person who becomes a member through the admission of an  
2 employer into the retirement system on and after April 1, 1949, and  
3 prior to April 1, 1951;

4 (c) Any person who first becomes a member by securing employment  
5 with an employer prior to April 1, 1951, provided the member has  
6 rendered at least one or more years of service to any employer prior to  
7 October 1, 1947;

8 (d) Any person who first becomes a member through the admission of  
9 an employer into the retirement system on or after April 1, 1951,  
10 provided, such person has been in the regular employ of the employer  
11 for at least six months of the twelve-month period preceding the said  
12 admission date;

13 (e) Any member who has restored all contributions that may have  
14 been withdrawn as provided by RCW 41.40.150 and who on the effective  
15 date of the individual's retirement becomes entitled to be credited  
16 with ten years or more of membership service except that the provisions  
17 relating to the minimum amount of retirement allowance for the member  
18 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
19 apply to the member;

20 (f) Any member who has been a contributor under the system for two  
21 or more years and who has restored all contributions that may have been  
22 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
23 the individual's retirement has rendered five or more years of service  
24 for the state or any political subdivision prior to the time of the  
25 admission of the employer into the system; except that the provisions  
26 relating to the minimum amount of retirement allowance for the member  
27 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
28 apply to the member.

29 (7) "New member" means a person who becomes a member on or after  
30 April 1, 1949, except as otherwise provided in this section.

31 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
32 or wages earned during a payroll period for personal services and where  
33 the compensation is not all paid in money, maintenance compensation  
34 shall be included upon the basis of the schedules established by the  
35 member's employer.

1 (i) "Compensation earnable" for plan 1 members also includes the  
2 following actual or imputed payments, which are not paid for personal  
3 services:

4 (A) Retroactive payments to an individual by an employer on  
5 reinstatement of the employee in a position, or payments by an employer  
6 to an individual in lieu of reinstatement in a position which are  
7 awarded or granted as the equivalent of the salary or wage which the  
8 individual would have earned during a payroll period shall be  
9 considered compensation earnable and the individual shall receive the  
10 equivalent service credit;

11 (B) If a leave of absence is taken by an individual for the purpose  
12 of serving in the state legislature, the salary which would have been  
13 received for the position from which the leave of absence was taken,  
14 shall be considered as compensation earnable if the employee's  
15 contribution is paid by the employee and the employer's contribution is  
16 paid by the employer or employee;

17 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
18 72.09.240;

19 (D) Compensation that a member would have received but for a  
20 disability occurring in the line of duty only as authorized by RCW  
21 41.40.038;

22 (E) Compensation that a member receives due to participation in the  
23 leave sharing program only as authorized by RCW 41.04.650 through  
24 41.04.670; and

25 (F) Compensation that a member receives for being in standby  
26 status. For the purposes of this section, a member is in standby  
27 status when not being paid for time actually worked and the employer  
28 requires the member to be prepared to report immediately for work, if  
29 the need arises, although the need may not arise.

30 (ii) "Compensation earnable" does not include:

31 (A) Remuneration for unused sick leave authorized under RCW  
32 41.04.340, 28A.400.210, or 28A.310.490;

33 (B) Remuneration for unused annual leave in excess of thirty days  
34 as authorized by RCW 43.01.044 and 43.01.041.

35 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
36 salaries or wages earned by a member during a payroll period for

1 personal services, including overtime payments, and shall include wages  
2 and salaries deferred under provisions established pursuant to sections  
3 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
4 shall exclude nonmoney maintenance compensation and lump sum or other  
5 payments for deferred annual sick leave, unused accumulated vacation,  
6 unused accumulated annual leave, or any form of severance pay.

7 "Compensation earnable" for plan 2 and plan 3 members also includes  
8 the following actual or imputed payments, which are not paid for  
9 personal services:

10 (i) Retroactive payments to an individual by an employer on  
11 reinstatement of the employee in a position, or payments by an employer  
12 to an individual in lieu of reinstatement in a position which are  
13 awarded or granted as the equivalent of the salary or wage which the  
14 individual would have earned during a payroll period shall be  
15 considered compensation earnable to the extent provided above, and the  
16 individual shall receive the equivalent service credit;

17 (ii) In any year in which a member serves in the legislature, the  
18 member shall have the option of having such member's compensation  
19 earnable be the greater of:

20 (A) The compensation earnable the member would have received had  
21 such member not served in the legislature; or

22 (B) Such member's actual compensation earnable received for  
23 nonlegislative public employment and legislative service combined. Any  
24 additional contributions to the retirement system required because  
25 compensation earnable under (b)(ii)(A) of this subsection is greater  
26 than compensation earnable under (b)(ii)(B) of this subsection shall be  
27 paid by the member for both member and employer contributions;

28 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
29 and 72.09.240;

30 (iv) Compensation that a member would have received but for a  
31 disability occurring in the line of duty only as authorized by RCW  
32 41.40.038;

33 (v) Compensation that a member receives due to participation in the  
34 leave sharing program only as authorized by RCW 41.04.650 through  
35 41.04.670; and

1 (vi) Compensation that a member receives for being in standby  
2 status. For the purposes of this section, a member is in standby  
3 status when not being paid for time actually worked and the employer  
4 requires the member to be prepared to report immediately for work, if  
5 the need arises, although the need may not arise.

6 (9)(a) "Service" for plan 1 members, except as provided in RCW  
7 41.40.088, means periods of employment in an eligible position or  
8 positions for one or more employers rendered to any employer for which  
9 compensation is paid, and includes time spent in office as an elected  
10 or appointed official of an employer. Compensation earnable earned in  
11 full time work for seventy hours or more in any given calendar month  
12 shall constitute one service credit month except as provided in RCW  
13 41.40.088. Compensation earnable earned for less than seventy hours in  
14 any calendar month shall constitute one-quarter service credit month of  
15 service except as provided in RCW 41.40.088. Only service credit  
16 months and one-quarter service credit months shall be counted in the  
17 computation of any retirement allowance or other benefit provided for  
18 in this chapter. Any fraction of a year of service shall be taken into  
19 account in the computation of such retirement allowance or benefits.  
20 Time spent in standby status, whether compensated or not, is not  
21 service.

22 (i) Service by a state employee officially assigned by the state on  
23 a temporary basis to assist another public agency, shall be considered  
24 as service as a state employee: PROVIDED, That service to any other  
25 public agency shall not be considered service as a state employee if  
26 such service has been used to establish benefits in any other public  
27 retirement system.

28 (ii) An individual shall receive no more than a total of twelve  
29 service credit months of service during any calendar year. If an  
30 individual is employed in an eligible position by one or more employers  
31 the individual shall receive no more than one service credit month  
32 during any calendar month in which multiple service for seventy or more  
33 hours is rendered.

34 (iii) A school district employee may count up to forty-five days of  
35 sick leave as creditable service solely for the purpose of determining  
36 eligibility to retire under RCW 41.40.180 as authorized by RCW

1 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
2 28A.400.300 is equal to two service credit months. Use of less than  
3 forty-five days of sick leave is creditable as allowed under this  
4 subsection as follows:

5 (A) Less than twenty-two days equals one-quarter service credit  
6 month;

7 (B) Twenty-two days equals one service credit month;

8 (C) More than twenty-two days but less than forty-five days equals  
9 one and one-quarter service credit month.

10 (b) "Service" for plan 2 and plan 3 members, means periods of  
11 employment by a member in an eligible position or positions for one or  
12 more employers for which compensation earnable is paid. Compensation  
13 earnable earned for ninety or more hours in any calendar month shall  
14 constitute one service credit month except as provided in RCW  
15 41.40.088. Compensation earnable earned for at least seventy hours but  
16 less than ninety hours in any calendar month shall constitute one-half  
17 service credit month of service. Compensation earnable earned for less  
18 than seventy hours in any calendar month shall constitute one-quarter  
19 service credit month of service. Time spent in standby status, whether  
20 compensated or not, is not service.

21 Any fraction of a year of service shall be taken into account in  
22 the computation of such retirement allowance or benefits.

23 (i) Service in any state elective position shall be deemed to be  
24 full time service, except that persons serving in state elective  
25 positions who are members of the Washington school employees'  
26 retirement system, teachers' retirement system, public safety  
27 employees' retirement system, or law enforcement officers' and fire  
28 fighters' retirement system at the time of election or appointment to  
29 such position may elect to continue membership in the Washington school  
30 employees' retirement system, teachers' retirement system, public  
31 safety employees' retirement system, or law enforcement officers' and  
32 fire fighters' retirement system.

33 (ii) A member shall receive a total of not more than twelve service  
34 credit months of service for such calendar year. If an individual is  
35 employed in an eligible position by one or more employers the  
36 individual shall receive no more than one service credit month during

1 any calendar month in which multiple service for ninety or more hours  
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as  
4 service solely for the purpose of determining eligibility to retire  
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
7 to two service credit months. Use of less than forty-five days of sick  
8 leave is creditable as allowed under this subsection as follows:

9 (A) Less than eleven days equals one-quarter service credit month;

10 (B) Eleven or more days but less than twenty-two days equals one-  
11 half service credit month;

12 (C) Twenty-two days equals one service credit month;

13 (D) More than twenty-two days but less than thirty-three days  
14 equals one and one-quarter service credit month;

15 (E) Thirty-three or more days but less than forty-five days equals  
16 one and one-half service credit month.

17 (10) "Service credit year" means an accumulation of months of  
18 service credit which is equal to one when divided by twelve.

19 (11) "Service credit month" means a month or an accumulation of  
20 months of service credit which is equal to one.

21 (12) "Prior service" means all service of an original member  
22 rendered to any employer prior to October 1, 1947.

23 (13) "Membership service" means:

24 (a) All service rendered, as a member, after October 1, 1947;

25 (b) All service after October 1, 1947, to any employer prior to the  
26 time of its admission into the retirement system for which member and  
27 employer contributions, plus interest as required by RCW 41.50.125,  
28 have been paid under RCW 41.40.056 or 41.40.057;

29 (c) Service not to exceed six consecutive months of probationary  
30 service rendered after April 1, 1949, and prior to becoming a member,  
31 in the case of any member, upon payment in full by such member of the  
32 total amount of the employer's contribution to the retirement fund  
33 which would have been required under the law in effect when such  
34 probationary service was rendered if the member had been a member  
35 during such period, except that the amount of the employer's

1 contribution shall be calculated by the director based on the first  
2 month's compensation earnable as a member;

3 (d) Service not to exceed six consecutive months of probationary  
4 service, rendered after October 1, 1947, and before April 1, 1949, and  
5 prior to becoming a member, in the case of any member, upon payment in  
6 full by such member of five percent of such member's salary during said  
7 period of probationary service, except that the amount of the  
8 employer's contribution shall be calculated by the director based on  
9 the first month's compensation earnable as a member.

10 (14)(a) "Beneficiary" for plan 1 members, means any person in  
11 receipt of a retirement allowance, pension or other benefit provided by  
12 this chapter.

13 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
14 in receipt of a retirement allowance or other benefit provided by this  
15 chapter resulting from service rendered to an employer by another  
16 person.

17 (15) "Regular interest" means such rate as the director may  
18 determine.

19 (16) "Accumulated contributions" means the sum of all contributions  
20 standing to the credit of a member in the member's individual account,  
21 including any amount paid under RCW 41.50.165(2), together with the  
22 regular interest thereon.

23 (17)(a) "Average final compensation" for plan 1 members, means the  
24 annual average of the greatest compensation earnable by a member during  
25 any consecutive two year period of service credit months for which  
26 service credit is allowed; or if the member has less than two years of  
27 service credit months then the annual average compensation earnable  
28 during the total years of service for which service credit is allowed.

29 (b) "Average final compensation" for plan 2 and plan 3 members,  
30 means the member's average compensation earnable of the highest  
31 consecutive sixty months of service credit months prior to such  
32 member's retirement, termination, or death. Periods constituting  
33 authorized leaves of absence may not be used in the calculation of  
34 average final compensation except under RCW 41.40.710(2).

35 (18) "Final compensation" means the annual rate of compensation  
36 earnable by a member at the time of termination of employment.

1       (19) "Annuity" means payments for life derived from accumulated  
2 contributions of a member. All annuities shall be paid in monthly  
3 installments.

4       (20) "Pension" means payments for life derived from contributions  
5 made by the employer. All pensions shall be paid in monthly  
6 installments.

7       (21) "Retirement allowance" means the sum of the annuity and the  
8 pension.

9       (22) "Employee" or "employed" means a person who is providing  
10 services for compensation to an employer, unless the person is free  
11 from the employer's direction and control over the performance of work.  
12 The department shall adopt rules and interpret this subsection  
13 consistent with common law.

14       (23) "Actuarial equivalent" means a benefit of equal value when  
15 computed upon the basis of such mortality and other tables as may be  
16 adopted by the director.

17       (24) "Retirement" means withdrawal from active service with a  
18 retirement allowance as provided by this chapter.

19       (25) "Eligible position" means:

20       (a) Any position that, as defined by the employer, normally  
21 requires five or more months of service a year for which regular  
22 compensation for at least seventy hours is earned by the occupant  
23 thereof. For purposes of this chapter an employer shall not define  
24 "position" in such a manner that an employee's monthly work for that  
25 employer is divided into more than one position;

26       (b) Any position occupied by an elected official or person  
27 appointed directly by the governor, or appointed by the chief justice  
28 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
29 compensation is paid.

30       (26) "Ineligible position" means any position which does not  
31 conform with the requirements set forth in subsection (25) of this  
32 section.

33       (27) "Leave of absence" means the period of time a member is  
34 authorized by the employer to be absent from service without being  
35 separated from membership.

1 (28) "Totally incapacitated for duty" means total inability to  
2 perform the duties of a member's employment or office or any other work  
3 for which the member is qualified by training or experience.

4 (29) "Retiree" means any person who has begun accruing a retirement  
5 allowance or other benefit provided by this chapter resulting from  
6 service rendered to an employer while a member.

7 (30) "Director" means the director of the department.

8 (31) "State elective position" means any position held by any  
9 person elected or appointed to statewide office or elected or appointed  
10 as a member of the legislature.

11 (32) "State actuary" or "actuary" means the person appointed  
12 pursuant to RCW 44.44.010(2).

13 (33) "Plan 1" means the public employees' retirement system, plan  
14 1 providing the benefits and funding provisions covering persons who  
15 first became members of the system prior to October 1, 1977.

16 (34) "Plan 2" means the public employees' retirement system, plan  
17 2 providing the benefits and funding provisions covering persons who  
18 first became members of the system on and after October 1, 1977, and  
19 are not included in plan 3.

20 (35) "Plan 3" means the public employees' retirement system, plan  
21 3 providing the benefits and funding provisions covering persons who:

22 (a) First become a member on or after:

23 (i) March 1, 2002, and are employed by a state agency or institute  
24 of higher education and who did not choose to enter plan 2; or

25 (ii) September 1, 2002, and are employed by other than a state  
26 agency or institute of higher education and who did not choose to enter  
27 plan 2; or

28 (b) Transferred to plan 3 under RCW 41.40.795.

29 (36) "Index" means, for any calendar year, that year's annual  
30 average consumer price index, Seattle, Washington area, for urban wage  
31 earners and clerical workers, all items, compiled by the bureau of  
32 labor statistics, United States department of labor.

33 (37) "Index A" means the index for the year prior to the  
34 determination of a postretirement adjustment.

35 (38) "Index B" means the index for the year prior to index A.

1 (39) "Index year" means the earliest calendar year in which the  
2 index is more than sixty percent of index A.

3 (40) "Adjustment ratio" means the value of index A divided by index  
4 B.

5 (41) "Annual increase" means, initially, fifty-nine cents per month  
6 per year of service which amount shall be increased each July 1st by  
7 three percent, rounded to the nearest cent.

8 (42) "Separation from service" occurs when a person has terminated  
9 all employment with an employer. Separation from service or employment  
10 does not occur, and if claimed by an employer or employee may be a  
11 violation of RCW 41.40.055, when an employee and employer have a  
12 written or oral agreement to resume employment with the same employer  
13 following termination. Mere expressions or inquiries about post-  
14 retirement employment by an employer or employee that do not constitute  
15 a commitment to re-employ the employee after retirement is not an  
16 agreement under this subsection that prevents separation from service  
17 from occurring.

18 (43) "Member account" or "member's account" for purposes of plan 3  
19 means the sum of the contributions and earnings on behalf of the member  
20 in the defined contribution portion of plan 3.

21 **Sec. 5.** RCW 41.40.037 and 2003 c 412 s 5 are each amended to read  
22 as follows: *(Because of PSERS, Effective until July 1, 2006.)*.

23 (1) (a) If a retiree enters employment with an employer sooner than  
24 one calendar month after his or her accrual date, the retiree's monthly  
25 retirement allowance will be reduced by five and one-half percent for  
26 every eight hours worked during that month. This reduction will be  
27 applied each month until the retiree remains absent from employment  
28 with an employer for one full calendar month.

29 (b) The benefit reduction provided in (a) of this subsection will  
30 accrue for a maximum of one hundred sixty hours per month. Any benefit  
31 reduction over one hundred percent will be applied to the benefit the  
32 retiree is eligible to receive in subsequent months.

1 (2) (a) Except as provided in (b) of this subsection, a retiree from  
2 plan 1 who enters employment with an employer at least one calendar  
3 month after his or her accrual date may continue to receive pension  
4 payments while engaged in such service for up to eight hundred sixty-  
5 seven hours of service in a calendar year without a reduction of  
6 pension.

7 (b) A retiree from plan 1 who enters employment with an employer at  
8 least three calendar months after his or her accrual date and:

9 (i) Is hired into a position for which the employer has documented  
10 a justifiable need to hire a retiree into the position;

11 (ii) Is hired through the established process for the position with  
12 the approval of: A school board for a school district; the chief  
13 executive officer of a state agency employer; the secretary of the  
14 senate for the senate; the chief clerk of the house of representatives  
15 for the house of representatives; the secretary of the senate and the  
16 chief clerk of the house of representatives jointly for the joint  
17 legislative audit and review committee, the legislative transportation  
18 committee, the joint committee on pension policy, the legislative  
19 evaluation and accountability program, the legislative systems  
20 committee, and the statute law committee; or according to rules adopted  
21 for the rehiring of retired plan 1 members for a local government  
22 employer;

23 (iii) The employer retains records of the procedures followed and  
24 decisions made in hiring the retiree, and provides those records in the  
25 event of an audit; and

26 (iv) The employee has not already rendered a cumulative total of  
27 more than ~~((one thousand nine hundred))~~ three thousand one hundred and  
28 sixty-five hours of service while in receipt of pension payments beyond  
29 an annual threshold of eight hundred sixty-seven hours;

30 shall cease to receive pension payments while engaged in that service  
31 after the retiree has rendered service for more than one thousand five  
32 hundred hours in a calendar year. The ~~((one thousand nine hundred~~  
33 ~~hour))~~ cumulative total limitations under this subsection  
34 ~~((applies))~~ apply prospectively ~~((to those retiring after July 27, 2003,~~  
35 ~~and retroactively to those who retired prior to July 27, 2003, and~~

1 ~~shall be calculated from the date of retirement))~~ after the effective  
2 date of this act.

3 (c) When a plan 1 member renders service beyond eight hundred  
4 sixty-seven hours, the department shall collect from the employer the  
5 applicable employer retirement contributions for the entire duration of  
6 the member's employment during that calendar year.

7 (d) A retiree from plan 2 or plan 3 who has satisfied the break in  
8 employment requirement of subsection (1) of this section may work up to  
9 eight hundred sixty-seven hours in a calendar year in an eligible  
10 position, as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as  
11 a fire fighter or law enforcement officer, as defined in RCW 41.26.030,  
12 without suspension of his or her benefit.

13 (3) If the retiree opts to reestablish membership under RCW  
14 41.40.023(12), he or she terminates his or her retirement status and  
15 becomes a member. Retirement benefits shall not accrue during the  
16 period of membership and the individual shall make contributions and  
17 receive membership credit. Such a member shall have the right to again  
18 retire if eligible in accordance with RCW 41.40.180. However, if the  
19 right to retire is exercised to become effective before the member has  
20 rendered two uninterrupted years of service, the retirement formula and  
21 survivor options the member had at the time of the member's previous  
22 retirement shall be reinstated.

23 (4) The department shall collect and provide the state actuary with  
24 information relevant to the use of this section for the select  
25 committee on pension policy.

26 (5) The legislature reserves the right to amend or repeal this  
27 section in the future and no member or beneficiary has a contractual  
28 right to be employed for more than five months in a calendar year  
29 without a reduction of his or her pension.

30 **Sec. 6.** RCW 41.40.037 and 2004 c 242 s 63 are each amended to read  
31 as follows: *(Because of PSERS, Effective July 1, 2006.)*.

32 (1) (a) If a retiree enters employment with an employer sooner than  
33 one calendar month after his or her accrual date, the retiree's monthly  
34 retirement allowance will be reduced by five and one-half percent for  
35 every eight hours worked during that month. This reduction will be

1 applied each month until the retiree remains absent from employment  
2 with an employer for one full calendar month.

3 (b) The benefit reduction provided in (a) of this subsection will  
4 accrue for a maximum of one hundred sixty hours per month. Any benefit  
5 reduction over one hundred percent will be applied to the benefit the  
6 retiree is eligible to receive in subsequent months.

7 (2) (a) Except as provided in (b) of this subsection, a retiree from  
8 plan 1 who enters employment with an employer at least one calendar  
9 month after his or her accrual date may continue to receive pension  
10 payments while engaged in such service for up to eight hundred sixty-  
11 seven hours of service in a calendar year without a reduction of  
12 pension.

13 (b) A retiree from plan 1 who enters employment with an employer at  
14 least three calendar months after his or her accrual date and:

15 (i) Is hired into a position for which the employer has documented  
16 a justifiable need to hire a retiree into the position;

17 (ii) Is hired through the established process for the position with  
18 the approval of: A school board for a school district; the chief  
19 executive officer of a state agency employer; the secretary of the  
20 senate for the senate; the chief clerk of the house of representatives  
21 for the house of representatives; the secretary of the senate and the  
22 chief clerk of the house of representatives jointly for the joint  
23 legislative audit and review committee, the legislative transportation  
24 committee, the joint committee on pension policy, the legislative  
25 evaluation and accountability program, the legislative systems  
26 committee, and the statute law committee; or according to rules adopted  
27 for the rehiring of retired plan 1 members for a local government  
28 employer;

29 (iii) The employer retains records of the procedures followed and  
30 decisions made in hiring the retiree, and provides those records in the  
31 event of an audit; and

32 (iv) The employee has not already rendered a cumulative total of  
33 more than (~~one thousand nine hundred~~) three thousand one hundred and  
34 sixty-five hours of service while in receipt of pension payments beyond  
35 an annual threshold of eight hundred sixty-seven hours;

1 shall cease to receive pension payments while engaged in that service  
2 after the retiree has rendered service for more than one thousand five  
3 hundred hours in a calendar year. The ~~((one thousand nine hundred~~  
4 ~~hour))~~ cumulative total limitations under this subsection  
5 ~~((applies))~~ apply prospectively ~~((to those retiring after July 27, 2003,~~  
6 ~~and retroactively to those who retired prior to July 27, 2003, and~~  
7 ~~shall be calculated from the date of retirement))~~ after the effective  
8 date of this act.

9 (c) When a plan 1 member renders service beyond eight hundred  
10 sixty-seven hours, the department shall collect from the employer the  
11 applicable employer retirement contributions for the entire duration of  
12 the member's employment during that calendar year.

13 (d) A retiree from plan 2 or plan 3 who has satisfied the break in  
14 employment requirement of subsection (1) of this section may work up to  
15 eight hundred sixty-seven hours in a calendar year in an eligible  
16 position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or  
17 41.40.010, or as a fire fighter or law enforcement officer, as defined  
18 in RCW 41.26.030, without suspension of his or her benefit.

19 (3) If the retiree opts to reestablish membership under RCW  
20 41.40.023(12), he or she terminates his or her retirement status and  
21 becomes a member. Retirement benefits shall not accrue during the  
22 period of membership and the individual shall make contributions and  
23 receive membership credit. Such a member shall have the right to again  
24 retire if eligible in accordance with RCW 41.40.180. However, if the  
25 right to retire is exercised to become effective before the member has  
26 rendered two uninterrupted years of service, the retirement formula and  
27 survivor options the member had at the time of the member's previous  
28 retirement shall be reinstated.

29 (4) The department shall collect and provide the state actuary with  
30 information relevant to the use of this section for the select  
31 committee on pension policy.

32 (5) The legislature reserves the right to amend or repeal this  
33 section in the future and no member or beneficiary has a contractual  
34 right to be employed for more than five months in a calendar year  
35 without a reduction of his or her pension.

1       **Sec. 7.** RCW 41.40.055 and 1947 c 274 s 41 are each amended to read  
2 as follows:

3       (1) Any person who shall knowingly make any false statements, or  
4 shall falsify or permit to be falsified any record or records of this  
5 retirement system, except as specified in subsection (2) of this  
6 section, in any attempt to defraud the retirement system as a result of  
7 such act, shall be guilty of a gross misdemeanor.

8       (2) Any person who shall knowingly make false statements or shall  
9 falsify or permit to be falsified any record or records of the  
10 retirement systems related to a member's separation from service and  
11 qualification for a retirement allowance under RCW 41.40.180 in any  
12 attempt to defraud such system as a result of such act, is guilty of a  
13 gross misdemeanor.

--- END ---



WASHINGTON STATE LEGISLATURE  
**Office of the State Actuary**

July 16, 2004

**TO:** Select Committee on Pension Policy Members

**FROM:** Laura Harper  
Senior Research Analyst/Legal

**SUBJECT: POST-RETIREMENT EMPLOYMENT FOLLOW-UP**

**1. Re: Post-Retirement Employment in TRS 1**

Enclosed are four documents that were identified at the July 13<sup>th</sup> meeting as items for distribution to the SCPP. "Draft Versions A, B and C" are draft bills prepared by David Pringle of the Appropriations Committee staff at the request of Representative Bill Fromhold. Also included is a copy of House Bill 2640 from the 2004 legislative session. As reported to you at the meeting, this was a non-SCPP bill that died in House Appropriations. All four drafts are aimed at adding the same or similar general hiring qualifications to TRS 1 as were added to PERS 1 in 2003.

**2. Re: Criminal Penalties in TRS and PERS**

I have also researched the disparity in criminal penalties for false statements in PERS and TRS. Current law for PERS provides: "Separation from service does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.55, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination." RCW 41.40.55 is the **PERS** provision entitled "Penalty for False Statements." This provision provides: "Any person who shall knowingly make any false statements, or shall falsify or permit to be falsified any record or records of this retirement system in any attempt to defraud the retirement system as a result of such act, shall be guilty of a **gross misdemeanor**." This provision has been in place since 1947.

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Similarly, the “Penalty for False Statements” section in TRS has been in effect since 1947; however a more stringent penalty was enacted for **TRS**: “Any person who shall knowingly make false statements or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud such system as a result of such act, is guilty of a **class B felony** punishable according to chapter 9A.20 RCW.”

The 2003 legislation containing restrictions on verbal or oral agreements was drafted in such a way that the “Penalty for False Statements” provision was cross-referenced for each plan. At that time, there was no attempt to amend either penalty provision, as they had been in place since 1947. This explains the 2003 disparity, but does not explain why the drafters of the 1947 legislation thought that TRS members should be penalized more heavily than PERS members for the same act. No legislative history is available from 1947, so any explanation would be speculative.

**3. Administrative Enforcement of “No Prior Agreement” Requirement**

During the executive committee discussion of this topic, there was a concern expressed by two members that penalties be focused on the employer, not the employee. I wanted to clarify that an administrative approach could just as easily be drafted to penalize employers instead of employees, should the committee seek to pursue that avenue. In any event, the CalPERS approach was included in the Post-Retirement Employment report simply as an illustration, and to inform the committee of an alternative to the criminal approach. It was the only example of an administrative approach within our comparative systems.

**4. Printing Error: Section C, Comparison with Other Retirement Systems**

Some text was cut off from the bottom of page 13 of the July 7, 2004 Report. The error occurred in the printing of the report only; the original version that was posted on the SCPP website is correct. The last sentence on page 13 should read as follows: “In fact, according to the National Council on Teacher Retirement, all 50 states allow some form of post-retirement employment for teachers.” Since I have your attention, I will add that according to Ron Snell of the National Council of State Legislatures, about half of the states allow teachers to return to work full time.

DRAFT VERSION "A" - ADDS THE SAME GENERAL HIRING CONDITIONS FROM PERS 1 TO TRS 1. MAKES THE LENGTH OF SEPARATION FROM SERVICE FOR TRS 45 DAYS, RATHER THAN 90 DAYS AS IN PERS 1. NO CHANGE TO FALSE CLAIMS PROVISION. NO CHANGE TO SEPARATION FROM SERVICE. TRS CUMULATIVE LIMIT OF 5 YEARS OF EXCESS OVER 867 (3165 HOURS) AFTER EFFECTIVE DATE OF ACT.

1 AN ACT Relating to postretirement employment for members of the  
2 teachers' retirement system plan 1; and amending RCW 41.32.570.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read  
5 as follows:

6 (1) (a) If a retiree enters employment with an employer sooner than  
7 one calendar month after his or her accrual date, the retiree's monthly  
8 retirement allowance will be reduced by five and one-half percent for  
9 every seven hours worked during that month. This reduction will be  
10 applied each month until the retiree remains absent from employment  
11 with an employer for one full calendar month.

12 (b) The benefit reduction provided in (a) of this subsection will  
13 accrue for a maximum of one hundred forty hours per month. Any monthly  
14 benefit reduction over one hundred percent will be applied to the  
15 benefit the retiree is eligible to receive in subsequent months.

16 (2) Except as provided in subsection (3) of this section, any  
17 retired teacher or retired administrator who enters service in any  
18 public educational institution in Washington state (~~and who has~~

1 ~~satisfied the break in employment requirement of subsection (1) of this~~  
2 ~~section))~~at least one calendar month after his or her accrual date  
3 shall cease to receive pension payments while engaged in such service,  
4 after the retiree has rendered service for more than ~~((one thousand~~  
5 ~~five hundred))~~eight hundred sixty-seven hours in a school year.

6 (3) Any retired teacher or retired administrator who enters service  
7 in any public educational institution in Washington state one and one-  
8 half calendar months or more after his or her accrual date and:

9 (a) Is hired into a position for which the school board has  
10 documented a justifiable need to hire a retiree into the position;

11 (b) Is hired through the established process for the position with  
12 the approval of the school board of the prospective employer;

13 (c) The employer retains records of the procedures followed an the  
14 decisions made in hiring the retired teacher or retired administrator  
15 and provides those records in the event of an audit; and

16 (d) The employee has not already rendered a cumulative total of  
17 more than three thousand one hundred sixty-five hours of service as  
18 while receiving pension payments beyond an annual threshold of eight  
19 hundred sixty-seven hours;

20 shall cease to receive pension payments while engaged in that service  
21 after the retiree has rendered service for more than one thousand five  
22 hundred hours in a school year. The cumulative total limitations under  
23 ths subsection apply prospectively after the effective date of this  
24 act.

25 (4) When a retired teacher or administrator renders service beyond  
26 eight hundred sixty-seven hours, the department shall collect from the  
27 employer the applicable employer retirement contributions for the  
28 entire duration of the member's employment during that fiscal year.

29 (3) The department shall collect and provide the state actuary with  
30 information relevant to the use of this section for the select  
31 committee on pension policy.

32 (4) The legislature reserves the right to amend or repeal this  
33 section in the future and no member or beneficiary has a contractual  
34 right to be employed for more than ~~((five hundred twenty-five))~~ eight  
35 hundred sixty-seven hours per year without a reduction of his or her  
36 pension.

--- END ---

DRAFT VERSION "B" - ADDS THE SAME GENERAL HIRING QUALIFICATIONS TO TRS 1 AS WERE ADDED TO PERS 1. MAKES THE LENGTH OF SEPARATION REQUIREMENT 45 DAYS FOR TRS, RATHER THAN THE 90 DAYS FOR PERS 1. ADDS A NEW SUBSECTION TO FALSE CLAIMS PROVISION IN TRS, MAKING APPLYING FOR RETIREMENT ALLOWANCE WITHOUT SEPARATING FROM SERVICE POTENTIALLY A GROSS MISDEMEANOR AS IN PERS. THE TRS SEPARATION FROM SERVICE DEFINITION IS AMENDED TO MATCH PERS. TRS CUMULATIVE LIMIT OF 5 YEARS OF EXCESS OVER 867 (3165 HOURS) AFTER EFFECTIVE DATE OF ACT.

1 AN ACT Relating to postretirement employment for members of the  
2 public employees' retirement system plan 1 and the teachers' retirement  
3 system plan 1; and amending RCW 41.32.010, 41.32.055, 41.32.570,  
4 41.40.055.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
7 as follows:

8 As used in this chapter, unless a different meaning is plainly  
9 required by the context:

10 (1)(a) "Accumulated contributions" for plan 1 members, means the  
11 sum of all regular annuity contributions and, except for the purpose of  
12 withdrawal at the time of retirement, any amount paid under RCW  
13 41.50.165(2) with regular interest thereon.

14 (b) "Accumulated contributions" for plan 2 members, means the sum  
15 of all contributions standing to the credit of a member in the member's  
16 individual account, including any amount paid under RCW 41.50.165(2),  
17 together with the regular interest thereon.

1       (2) "Actuarial equivalent" means a benefit of equal value when  
2       computed upon the basis of such mortality tables and regulations as  
3       shall be adopted by the director and regular interest.

4       (3) "Annuity" means the moneys payable per year during life by  
5       reason of accumulated contributions of a member.

6       (4) "Member reserve" means the fund in which all of the accumulated  
7       contributions of members are held.

8       (5)(a) "Beneficiary" for plan 1 members, means any person in  
9       receipt of a retirement allowance or other benefit provided by this  
10      chapter.

11      (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
12      in receipt of a retirement allowance or other benefit provided by this  
13      chapter resulting from service rendered to an employer by another  
14      person.

15      (6) "Contract" means any agreement for service and compensation  
16      between a member and an employer.

17      (7) "Creditable service" means membership service plus prior  
18      service for which credit is allowable. This subsection shall apply  
19      only to plan 1 members.

20      (8) "Dependent" means receiving one-half or more of support from a  
21      member.

22      (9) "Disability allowance" means monthly payments during  
23      disability. This subsection shall apply only to plan 1 members.

24      (10)(a) "Earnable compensation" for plan 1 members, means:

25      (i) All salaries and wages paid by an employer to an employee  
26      member of the retirement system for personal services rendered during  
27      a fiscal year. In all cases where compensation includes maintenance  
28      the employer shall fix the value of that part of the compensation not  
29      paid in money.

30      (ii) For an employee member of the retirement system teaching in an  
31      extended school year program, two consecutive extended school years, as  
32      defined by the employer school district, may be used as the annual  
33      period for determining earnable compensation in lieu of the two fiscal  
34      years.

1 (iii) "Earnable compensation" for plan 1 members also includes the  
2 following actual or imputed payments, which are not paid for personal  
3 services:

4 (A) Retroactive payments to an individual by an employer on  
5 reinstatement of the employee in a position, or payments by an employer  
6 to an individual in lieu of reinstatement in a position which are  
7 awarded or granted as the equivalent of the salary or wages which the  
8 individual would have earned during a payroll period shall be  
9 considered earnable compensation and the individual shall receive the  
10 equivalent service credit.

11 (B) If a leave of absence, without pay, is taken by a member for  
12 the purpose of serving as a member of the state legislature, and such  
13 member has served in the legislature five or more years, the salary  
14 which would have been received for the position from which the leave of  
15 absence was taken shall be considered as compensation earnable if the  
16 employee's contribution thereon is paid by the employee. In addition,  
17 where a member has been a member of the state legislature for five or  
18 more years, earnable compensation for the member's two highest  
19 compensated consecutive years of service shall include a sum not to  
20 exceed thirty-six hundred dollars for each of such two consecutive  
21 years, regardless of whether or not legislative service was rendered  
22 during those two years.

23 (iv) For members employed less than full time under written  
24 contract with a school district, or community college district, in an  
25 instructional position, for which the member receives service credit of  
26 less than one year in all of the years used to determine the earnable  
27 compensation used for computing benefits due under RCW 41.32.497,  
28 41.32.498, and 41.32.520, the member may elect to have earnable  
29 compensation defined as provided in RCW 41.32.345. For the purposes of  
30 this subsection, the term "instructional position" means a position in  
31 which more than seventy-five percent of the member's time is spent as  
32 a classroom instructor (including office hours), a librarian, or a  
33 counselor. Earnable compensation shall be so defined only for the  
34 purpose of the calculation of retirement benefits and only as necessary  
35 to insure that members who receive fractional service credit under RCW

1 41.32.270 receive benefits proportional to those received by members  
2 who have received full-time service credit.

3 (v) "Earnable compensation" does not include:

4 (A) Remuneration for unused sick leave authorized under RCW  
5 41.04.340, 28A.400.210, or 28A.310.490;

6 (B) Remuneration for unused annual leave in excess of thirty days  
7 as authorized by RCW 43.01.044 and 43.01.041.

8 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
9 salaries or wages earned by a member during a payroll period for  
10 personal services, including overtime payments, and shall include wages  
11 and salaries deferred under provisions established pursuant to sections  
12 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
13 shall exclude lump sum payments for deferred annual sick leave, unused  
14 accumulated vacation, unused accumulated annual leave, or any form of  
15 severance pay.

16 "Earnable compensation" for plan 2 and plan 3 members also includes  
17 the following actual or imputed payments which, except in the case of  
18 (b)(ii)(B) of this subsection, are not paid for personal services:

19 (i) Retroactive payments to an individual by an employer on  
20 reinstatement of the employee in a position or payments by an employer  
21 to an individual in lieu of reinstatement in a position which are  
22 awarded or granted as the equivalent of the salary or wages which the  
23 individual would have earned during a payroll period shall be  
24 considered earnable compensation, to the extent provided above, and the  
25 individual shall receive the equivalent service credit.

26 (ii) In any year in which a member serves in the legislature the  
27 member shall have the option of having such member's earnable  
28 compensation be the greater of:

29 (A) The earnable compensation the member would have received had  
30 such member not served in the legislature; or

31 (B) Such member's actual earnable compensation received for  
32 teaching and legislative service combined. Any additional  
33 contributions to the retirement system required because compensation  
34 earnable under (b)(ii)(A) of this subsection is greater than  
35 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
36 by the member for both member and employer contributions.

1       (11) "Employer" means the state of Washington, the school district,  
2 or any agency of the state of Washington by which the member is paid.

3       (12) "Fiscal year" means a year which begins July 1st and ends June  
4 30th of the following year.

5       (13) "Former state fund" means the state retirement fund in  
6 operation for teachers under chapter 187, Laws of 1923, as amended.

7       (14) "Local fund" means any of the local retirement funds for  
8 teachers operated in any school district in accordance with the  
9 provisions of chapter 163, Laws of 1917 as amended.

10       (15) "Member" means any teacher included in the membership of the  
11 retirement system. Also, any other employee of the public schools who,  
12 on July 1, 1947, had not elected to be exempt from membership and who,  
13 prior to that date, had by an authorized payroll deduction, contributed  
14 to the member reserve.

15       (16) "Membership service" means service rendered subsequent to the  
16 first day of eligibility of a person to membership in the retirement  
17 system: PROVIDED, That where a member is employed by two or more  
18 employers the individual shall receive no more than one service credit  
19 month during any calendar month in which multiple service is rendered.  
20 The provisions of this subsection shall apply only to plan 1 members.

21       (17) "Pension" means the moneys payable per year during life from  
22 the pension reserve.

23       (18) "Pension reserve" is a fund in which shall be accumulated an  
24 actuarial reserve adequate to meet present and future pension  
25 liabilities of the system and from which all pension obligations are to  
26 be paid.

27       (19) "Prior service" means service rendered prior to the first date  
28 of eligibility to membership in the retirement system for which credit  
29 is allowable. The provisions of this subsection shall apply only to  
30 plan 1 members.

31       (20) "Prior service contributions" means contributions made by a  
32 member to secure credit for prior service. The provisions of this  
33 subsection shall apply only to plan 1 members.

34       (21) "Public school" means any institution or activity operated by  
35 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and  
2 Washington State University.

3 (22) "Regular contributions" means the amounts required to be  
4 deducted from the compensation of a member and credited to the member's  
5 individual account in the member reserve. This subsection shall apply  
6 only to plan 1 members.

7 (23) "Regular interest" means such rate as the director may  
8 determine.

9 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
10 payments based on the sum of annuity and pension, or any optional  
11 benefits payable in lieu thereof.

12 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
13 monthly payments to a retiree or beneficiary as provided in this  
14 chapter.

15 (25) "Retirement system" means the Washington state teachers'  
16 retirement system.

17 (26)(a) "Service" for plan 1 members means the time during which a  
18 member has been employed by an employer for compensation.

19 (i) If a member is employed by two or more employers the individual  
20 shall receive no more than one service credit month during any calendar  
21 month in which multiple service is rendered.

22 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
23 sick leave may be creditable as service solely for the purpose of  
24 determining eligibility to retire under RCW 41.32.470.

25 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
26 state retirement system that covers teachers in public schools may be  
27 applied solely for the purpose of determining eligibility to retire  
28 under RCW 41.32.470.

29 (b) "Service" for plan 2 and plan 3 members, means periods of  
30 employment by a member for one or more employers for which earnable  
31 compensation is earned subject to the following conditions:

32 (i) A member employed in an eligible position or as a substitute  
33 shall receive one service credit month for each month of September  
34 through August of the following year if he or she earns earnable  
35 compensation for eight hundred ten or more hours during that period and  
36 is employed during nine of those months, except that a member may not

1 receive credit for any period prior to the member's employment in an  
2 eligible position except as provided in RCW 41.32.812 and 41.50.132;

3 (ii) If a member is employed either in an eligible position or as  
4 a substitute teacher for nine months of the twelve month period between  
5 September through August of the following year but earns earnable  
6 compensation for less than eight hundred ten hours but for at least six  
7 hundred thirty hours, he or she will receive one-half of a service  
8 credit month for each month of the twelve month period;

9 (iii) All other members in an eligible position or as a substitute  
10 teacher shall receive service credit as follows:

11 (A) A service credit month is earned in those calendar months where  
12 earnable compensation is earned for ninety or more hours;

13 (B) A half-service credit month is earned in those calendar months  
14 where earnable compensation is earned for at least seventy hours but  
15 less than ninety hours; and

16 (C) A quarter-service credit month is earned in those calendar  
17 months where earnable compensation is earned for less than seventy  
18 hours.

19 (iv) Any person who is a member of the teachers' retirement system  
20 and who is elected or appointed to a state elective position may  
21 continue to be a member of the retirement system and continue to  
22 receive a service credit month for each of the months in a state  
23 elective position by making the required member contributions.

24 (v) When an individual is employed by two or more employers the  
25 individual shall only receive one month's service credit during any  
26 calendar month in which multiple service for ninety or more hours is  
27 rendered.

28 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
29 sick leave may be creditable as service solely for the purpose of  
30 determining eligibility to retire under RCW 41.32.470. For purposes of  
31 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
32 to two service credit months. Use of less than forty-five days of sick  
33 leave is creditable as allowed under this subsection as follows:

34 (A) Less than eleven days equals one-quarter service credit month;

35 (B) Eleven or more days but less than twenty-two days equals one-  
36 half service credit month;

1 (C) Twenty-two days equals one service credit month;

2 (D) More than twenty-two days but less than thirty-three days

3 equals one and one-quarter service credit month;

4 (E) Thirty-three or more days but less than forty-five days equals

5 one and one-half service credit month.

6 (vii) As authorized in RCW 41.32.065, service earned in an out-of-

7 state retirement system that covers teachers in public schools may be

8 applied solely for the purpose of determining eligibility to retire

9 under RCW 41.32.470.

10 (viii) The department shall adopt rules implementing this

11 subsection.

12 (27) "Service credit year" means an accumulation of months of

13 service credit which is equal to one when divided by twelve.

14 (28) "Service credit month" means a full service credit month or an

15 accumulation of partial service credit months that are equal to one.

16 (29) "Teacher" means any person qualified to teach who is engaged

17 by a public school in an instructional, administrative, or supervisory

18 capacity. The term includes state, educational service district, and

19 school district superintendents and their assistants and all employees

20 certificated by the superintendent of public instruction; and in

21 addition thereto any full time school doctor who is employed by a

22 public school and renders service of an instructional or educational

23 nature.

24 (30) "Average final compensation" for plan 2 and plan 3 members,

25 means the member's average earnable compensation of the highest

26 consecutive sixty service credit months prior to such member's

27 retirement, termination, or death. Periods constituting authorized

28 leaves of absence may not be used in the calculation of average final

29 compensation except under RCW 41.32.810(2).

30 (31) "Retiree" means any person who has begun accruing a retirement

31 allowance or other benefit provided by this chapter resulting from

32 service rendered to an employer while a member.

33 (32) "Department" means the department of retirement systems

34 created in chapter 41.50 RCW.

35 (33) "Director" means the director of the department.

1 (34) "State elective position" means any position held by any  
2 person elected or appointed to statewide office or elected or appointed  
3 as a member of the legislature.

4 (35) "State actuary" or "actuary" means the person appointed  
5 pursuant to RCW 44.44.010(2).

6 (36) "Substitute teacher" means:

7 (a) A teacher who is hired by an employer to work as a temporary  
8 teacher, except for teachers who are annual contract employees of an  
9 employer and are guaranteed a minimum number of hours; or

10 (b) Teachers who either (i) work in ineligible positions for more  
11 than one employer or (ii) work in an ineligible position or positions  
12 together with an eligible position.

13 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
14 through September 1, 1991, means a position which normally requires two  
15 or more uninterrupted months of creditable service during September  
16 through August of the following year.

17 (b) "Eligible position" for plan 2 and plan 3 on and after  
18 September 1, 1991, means a position that, as defined by the employer,  
19 normally requires five or more months of at least seventy hours of  
20 earnable compensation during September through August of the following  
21 year.

22 (c) For purposes of this chapter an employer shall not define  
23 "position" in such a manner that an employee's monthly work for that  
24 employer is divided into more than one position.

25 (d) The elected position of the superintendent of public  
26 instruction is an eligible position.

27 (38) "Plan 1" means the teachers' retirement system, plan 1  
28 providing the benefits and funding provisions covering persons who  
29 first became members of the system prior to October 1, 1977.

30 (39) "Plan 2" means the teachers' retirement system, plan 2  
31 providing the benefits and funding provisions covering persons who  
32 first became members of the system on and after October 1, 1977, and  
33 prior to July 1, 1996.

34 (40) "Plan 3" means the teachers' retirement system, plan 3  
35 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who  
2 transfer under RCW 41.32.817.

3 (41) "Index" means, for any calendar year, that year's annual  
4 average consumer price index, Seattle, Washington area, for urban wage  
5 earners and clerical workers, all items compiled by the bureau of labor  
6 statistics, United States department of labor.

7 (42) "Index A" means the index for the year prior to the  
8 determination of a postretirement adjustment.

9 (43) "Index B" means the index for the year prior to index A.

10 (44) "Index year" means the earliest calendar year in which the  
11 index is more than sixty percent of index A.

12 (45) "Adjustment ratio" means the value of index A divided by index  
13 B.

14 (46) "Annual increase" means, initially, fifty-nine cents per month  
15 per year of service which amount shall be increased each July 1st by  
16 three percent, rounded to the nearest cent.

17 (47) "Member account" or "member's account" for purposes of plan 3  
18 means the sum of the contributions and earnings on behalf of the member  
19 in the defined contribution portion of plan 3.

20 (48) "Separation from service or employment" occurs when a person  
21 has terminated all employment with an employer. Separation from  
22 service or employment does not occur, and if claimed by an employer or  
23 employee may be a violation of RCW 41.32.055, when an employee and  
24 employer have a written or oral agreement to resume employment with the  
25 same employer following termination.

26 (49) "Employed" or "employee" means a person who is providing  
27 services for compensation to an employer, unless the person is free  
28 from the employer's direction and control over the performance of work.  
29 The department shall adopt rules and interpret this subsection  
30 consistent with common law.

31 **Sec. 2.** RCW 41.32.055 and 2003 c 53 s 218 are each amended to read  
32 as follows:

33 (1) Any person who shall knowingly make false statements or shall  
34 falsify or permit to be falsified any record or records of the  
35 retirement system, except as specified in subsection (2) of this

1 section, in any attempt to defraud such system as a result of such act,  
2 is guilty of a class B felony punishable according to chapter 9A.20  
3 RCW.

4 (2) Any person who shall knowingly make false statements or shall  
5 falsify or permit to be falsified any record or records of the  
6 retirement systems related to a member's separation from service and  
7 qualification for a retirement allowance under RCW 41.32.480 in any  
8 attempt to defraud such system as a result of such act, is guilty of a  
9 gross misdemeanor.

10 **Sec. 3.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read  
11 as follows:

12 (1) (a) If a retiree enters employment with an employer sooner than  
13 one calendar month after his or her accrual date, the retiree's monthly  
14 retirement allowance will be reduced by five and one-half percent for  
15 every seven hours worked during that month. This reduction will be  
16 applied each month until the retiree remains absent from employment  
17 with an employer for one full calendar month.

18 (b) The benefit reduction provided in (a) of this subsection will  
19 accrue for a maximum of one hundred forty hours per month. Any monthly  
20 benefit reduction over one hundred percent will be applied to the  
21 benefit the retiree is eligible to receive in subsequent months.

22 (2) Except as provided in subsection (3) of this section, any  
23 retired teacher or retired administrator who enters service in any  
24 public educational institution in Washington state ((and who has  
25 satisfied the break in employment requirement of subsection (1) of this  
26 section)) at least one calendar month after his or her accrual date  
27 shall cease to receive pension payments while engaged in such service,  
28 after the retiree has rendered service for more than ((one thousand  
29 five hundred)) eight hundred sixty-seven hours in a school year.

30 (3) Any retired teacher or retired administrator who enters service  
31 in any public educational institution in Washington state one and one-  
32 half calendar months or more after his or her accrual date and:

33 (a) Is hired into a position for which the school board has  
34 documented a justifiable need to hire a retiree into the position;

1 (b) Is hired through the established process for the position with  
2 the approval of the school board of the prospective employer;

3 (c) The employer retains records of the procedures followed an the  
4 decisions made in hiring the retired teacher or retired administrator  
5 and provides those records in the event of an audit; and

6 (d) The employee has not already rendered a cumulative total of  
7 more than three thousand one hundred sixty-five hours of service as  
8 while receiving pension payments beyond an annual threshold of eight  
9 hundred sixty-seven hours;

10 shall cease to receive pension payments while engaged in that service  
11 after the retiree has rendered service for more than one thousand five  
12 hundred hours in a school year. The cumulative total limitations under  
13 ths subsection apply prospectively after the effective date of this  
14 act.

15 (4) When a retired teacher or administrator renders service beyond  
16 eight hundred sixty-seven hours, the department shall collect from the  
17 employer the applicable employer retirement contributions for the  
18 entire duration of the member's employment during that fiscal year.

19 (3) The department shall collect and provide the state actuary with  
20 information relevant to the use of this section for the select  
21 committee on pension policy.

22 (4) The legislature reserves the right to amend or repeal this  
23 section in the future and no member or beneficiary has a contractual  
24 right to be employed for more than ~~((five hundred twenty-five))~~ eight  
25 hundred sixty-seven hours per year without a reduction of his or her  
26 pension.

27 **Sec. 4.** RCW 41.40.055 and 1947 c 274 s 41 are each amended to read  
28 as follows:

29 (1) Any person who shall knowingly make any false statements, or  
30 shall falsify or permit to be falsified any record or records of this  
31 retirement system, except as specified in subsection (2) of this  
32 section, in any attempt to defraud the retirement system as a result of  
33 such act, shall be guilty of a gross misdemeanor.

34 (2) Any person who shall knowingly make false statements or shall  
35 falsify or permit to be falsified any record or records of the

1 retirement systems related to a member's separation from service and  
2 qualification for a retirement allowance under RCW 41.40.180 in any  
3 attempt to defraud such system as a result of such act, is guilty of a  
4 gross misdemeanor.

--- END ---

DRAFT VERSION "C" - ADDS THE SAME GENERAL HIRING QUALIFICATIONS TO TRS 1 AS WERE ADDED TO PERS 1. MAKES THE LENGTH OF SEPARATION REQUIREMENT 45 DAYS FOR TRS, RATHER THAN THE 90 DAYS FOR PERS 1. ADDS A NEW SUBSECTION TO FALSE CLAIMS PROVISION IN TRS, MAKING APPLYING FOR RETIREMENT ALLOWANCE WITHOUT SEPARATING FROM SERVICE POTENTIALLY A GROSS MISDEMEANOR AS IN PERS. TRS SEPARATION FROM SERVICE DEFINITION IS MADE TO MATCH TRS, AND LANGUAGE IS ADDED TO BOTH PERS AND TRS CLARIFYING WHAT CONSTITUTES AN AGREEMENT. CUMULATIVE LIMIT OF 5 YEARS OF EXCESS OVER 867 (3165 HOURS) AFTER EFFECTIVE DATE OF ACT.

1       AN ACT Relating to postretirement employment for members of the  
2 public employees' retirement system plan 1 and the teachers' retirement  
3 system plan 1; and amending RCW 41.32.010, 41.32.055, 41.32.570,  
4 41.40.010, 41.40.055.

5       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
7 as follows:

8       As used in this chapter, unless a different meaning is plainly  
9 required by the context:

10       (1)(a) "Accumulated contributions" for plan 1 members, means the  
11 sum of all regular annuity contributions and, except for the purpose of  
12 withdrawal at the time of retirement, any amount paid under RCW  
13 41.50.165(2) with regular interest thereon.

14       (b) "Accumulated contributions" for plan 2 members, means the sum  
15 of all contributions standing to the credit of a member in the member's  
16 individual account, including any amount paid under RCW 41.50.165(2),  
17 together with the regular interest thereon.

1 (2) "Actuarial equivalent" means a benefit of equal value when  
2 computed upon the basis of such mortality tables and regulations as  
3 shall be adopted by the director and regular interest.

4 (3) "Annuity" means the moneys payable per year during life by  
5 reason of accumulated contributions of a member.

6 (4) "Member reserve" means the fund in which all of the accumulated  
7 contributions of members are held.

8 (5)(a) "Beneficiary" for plan 1 members, means any person in  
9 receipt of a retirement allowance or other benefit provided by this  
10 chapter.

11 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
12 in receipt of a retirement allowance or other benefit provided by this  
13 chapter resulting from service rendered to an employer by another  
14 person.

15 (6) "Contract" means any agreement for service and compensation  
16 between a member and an employer.

17 (7) "Creditable service" means membership service plus prior  
18 service for which credit is allowable. This subsection shall apply  
19 only to plan 1 members.

20 (8) "Dependent" means receiving one-half or more of support from a  
21 member.

22 (9) "Disability allowance" means monthly payments during  
23 disability. This subsection shall apply only to plan 1 members.

24 (10)(a) "Earnable compensation" for plan 1 members, means:

25 (i) All salaries and wages paid by an employer to an employee  
26 member of the retirement system for personal services rendered during  
27 a fiscal year. In all cases where compensation includes maintenance  
28 the employer shall fix the value of that part of the compensation not  
29 paid in money.

30 (ii) For an employee member of the retirement system teaching in an  
31 extended school year program, two consecutive extended school years, as  
32 defined by the employer school district, may be used as the annual  
33 period for determining earnable compensation in lieu of the two fiscal  
34 years.

1 (iii) "Earnable compensation" for plan 1 members also includes the  
2 following actual or imputed payments, which are not paid for personal  
3 services:

4 (A) Retroactive payments to an individual by an employer on  
5 reinstatement of the employee in a position, or payments by an employer  
6 to an individual in lieu of reinstatement in a position which are  
7 awarded or granted as the equivalent of the salary or wages which the  
8 individual would have earned during a payroll period shall be  
9 considered earnable compensation and the individual shall receive the  
10 equivalent service credit.

11 (B) If a leave of absence, without pay, is taken by a member for  
12 the purpose of serving as a member of the state legislature, and such  
13 member has served in the legislature five or more years, the salary  
14 which would have been received for the position from which the leave of  
15 absence was taken shall be considered as compensation earnable if the  
16 employee's contribution thereon is paid by the employee. In addition,  
17 where a member has been a member of the state legislature for five or  
18 more years, earnable compensation for the member's two highest  
19 compensated consecutive years of service shall include a sum not to  
20 exceed thirty-six hundred dollars for each of such two consecutive  
21 years, regardless of whether or not legislative service was rendered  
22 during those two years.

23 (iv) For members employed less than full time under written  
24 contract with a school district, or community college district, in an  
25 instructional position, for which the member receives service credit of  
26 less than one year in all of the years used to determine the earnable  
27 compensation used for computing benefits due under RCW 41.32.497,  
28 41.32.498, and 41.32.520, the member may elect to have earnable  
29 compensation defined as provided in RCW 41.32.345. For the purposes of  
30 this subsection, the term "instructional position" means a position in  
31 which more than seventy-five percent of the member's time is spent as  
32 a classroom instructor (including office hours), a librarian, or a  
33 counselor. Earnable compensation shall be so defined only for the  
34 purpose of the calculation of retirement benefits and only as necessary  
35 to insure that members who receive fractional service credit under RCW

1 41.32.270 receive benefits proportional to those received by members  
2 who have received full-time service credit.

3 (v) "Earnable compensation" does not include:

4 (A) Remuneration for unused sick leave authorized under RCW  
5 41.04.340, 28A.400.210, or 28A.310.490;

6 (B) Remuneration for unused annual leave in excess of thirty days  
7 as authorized by RCW 43.01.044 and 43.01.041.

8 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
9 salaries or wages earned by a member during a payroll period for  
10 personal services, including overtime payments, and shall include wages  
11 and salaries deferred under provisions established pursuant to sections  
12 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
13 shall exclude lump sum payments for deferred annual sick leave, unused  
14 accumulated vacation, unused accumulated annual leave, or any form of  
15 severance pay.

16 "Earnable compensation" for plan 2 and plan 3 members also includes  
17 the following actual or imputed payments which, except in the case of  
18 (b)(ii)(B) of this subsection, are not paid for personal services:

19 (i) Retroactive payments to an individual by an employer on  
20 reinstatement of the employee in a position or payments by an employer  
21 to an individual in lieu of reinstatement in a position which are  
22 awarded or granted as the equivalent of the salary or wages which the  
23 individual would have earned during a payroll period shall be  
24 considered earnable compensation, to the extent provided above, and the  
25 individual shall receive the equivalent service credit.

26 (ii) In any year in which a member serves in the legislature the  
27 member shall have the option of having such member's earnable  
28 compensation be the greater of:

29 (A) The earnable compensation the member would have received had  
30 such member not served in the legislature; or

31 (B) Such member's actual earnable compensation received for  
32 teaching and legislative service combined. Any additional  
33 contributions to the retirement system required because compensation  
34 earnable under (b)(ii)(A) of this subsection is greater than  
35 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
36 by the member for both member and employer contributions.

1       (11) "Employer" means the state of Washington, the school district,  
2 or any agency of the state of Washington by which the member is paid.

3       (12) "Fiscal year" means a year which begins July 1st and ends June  
4 30th of the following year.

5       (13) "Former state fund" means the state retirement fund in  
6 operation for teachers under chapter 187, Laws of 1923, as amended.

7       (14) "Local fund" means any of the local retirement funds for  
8 teachers operated in any school district in accordance with the  
9 provisions of chapter 163, Laws of 1917 as amended.

10       (15) "Member" means any teacher included in the membership of the  
11 retirement system. Also, any other employee of the public schools who,  
12 on July 1, 1947, had not elected to be exempt from membership and who,  
13 prior to that date, had by an authorized payroll deduction, contributed  
14 to the member reserve.

15       (16) "Membership service" means service rendered subsequent to the  
16 first day of eligibility of a person to membership in the retirement  
17 system: PROVIDED, That where a member is employed by two or more  
18 employers the individual shall receive no more than one service credit  
19 month during any calendar month in which multiple service is rendered.  
20 The provisions of this subsection shall apply only to plan 1 members.

21       (17) "Pension" means the moneys payable per year during life from  
22 the pension reserve.

23       (18) "Pension reserve" is a fund in which shall be accumulated an  
24 actuarial reserve adequate to meet present and future pension  
25 liabilities of the system and from which all pension obligations are to  
26 be paid.

27       (19) "Prior service" means service rendered prior to the first date  
28 of eligibility to membership in the retirement system for which credit  
29 is allowable. The provisions of this subsection shall apply only to  
30 plan 1 members.

31       (20) "Prior service contributions" means contributions made by a  
32 member to secure credit for prior service. The provisions of this  
33 subsection shall apply only to plan 1 members.

34       (21) "Public school" means any institution or activity operated by  
35 the state of Washington or any instrumentality or political subdivision

1 thereof employing teachers, except the University of Washington and  
2 Washington State University.

3 (22) "Regular contributions" means the amounts required to be  
4 deducted from the compensation of a member and credited to the member's  
5 individual account in the member reserve. This subsection shall apply  
6 only to plan 1 members.

7 (23) "Regular interest" means such rate as the director may  
8 determine.

9 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
10 payments based on the sum of annuity and pension, or any optional  
11 benefits payable in lieu thereof.

12 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
13 monthly payments to a retiree or beneficiary as provided in this  
14 chapter.

15 (25) "Retirement system" means the Washington state teachers'  
16 retirement system.

17 (26)(a) "Service" for plan 1 members means the time during which a  
18 member has been employed by an employer for compensation.

19 (i) If a member is employed by two or more employers the individual  
20 shall receive no more than one service credit month during any calendar  
21 month in which multiple service is rendered.

22 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
23 sick leave may be creditable as service solely for the purpose of  
24 determining eligibility to retire under RCW 41.32.470.

25 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
26 state retirement system that covers teachers in public schools may be  
27 applied solely for the purpose of determining eligibility to retire  
28 under RCW 41.32.470.

29 (b) "Service" for plan 2 and plan 3 members, means periods of  
30 employment by a member for one or more employers for which earnable  
31 compensation is earned subject to the following conditions:

32 (i) A member employed in an eligible position or as a substitute  
33 shall receive one service credit month for each month of September  
34 through August of the following year if he or she earns earnable  
35 compensation for eight hundred ten or more hours during that period and  
36 is employed during nine of those months, except that a member may not

1 receive credit for any period prior to the member's employment in an  
2 eligible position except as provided in RCW 41.32.812 and 41.50.132;

3 (ii) If a member is employed either in an eligible position or as  
4 a substitute teacher for nine months of the twelve month period between  
5 September through August of the following year but earns earnable  
6 compensation for less than eight hundred ten hours but for at least six  
7 hundred thirty hours, he or she will receive one-half of a service  
8 credit month for each month of the twelve month period;

9 (iii) All other members in an eligible position or as a substitute  
10 teacher shall receive service credit as follows:

11 (A) A service credit month is earned in those calendar months where  
12 earnable compensation is earned for ninety or more hours;

13 (B) A half-service credit month is earned in those calendar months  
14 where earnable compensation is earned for at least seventy hours but  
15 less than ninety hours; and

16 (C) A quarter-service credit month is earned in those calendar  
17 months where earnable compensation is earned for less than seventy  
18 hours.

19 (iv) Any person who is a member of the teachers' retirement system  
20 and who is elected or appointed to a state elective position may  
21 continue to be a member of the retirement system and continue to  
22 receive a service credit month for each of the months in a state  
23 elective position by making the required member contributions.

24 (v) When an individual is employed by two or more employers the  
25 individual shall only receive one month's service credit during any  
26 calendar month in which multiple service for ninety or more hours is  
27 rendered.

28 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
29 sick leave may be creditable as service solely for the purpose of  
30 determining eligibility to retire under RCW 41.32.470. For purposes of  
31 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
32 to two service credit months. Use of less than forty-five days of sick  
33 leave is creditable as allowed under this subsection as follows:

34 (A) Less than eleven days equals one-quarter service credit month;

35 (B) Eleven or more days but less than twenty-two days equals one-  
36 half service credit month;

1 (C) Twenty-two days equals one service credit month;  
2 (D) More than twenty-two days but less than thirty-three days  
3 equals one and one-quarter service credit month;  
4 (E) Thirty-three or more days but less than forty-five days equals  
5 one and one-half service credit month.  
6 (vii) As authorized in RCW 41.32.065, service earned in an out-of-  
7 state retirement system that covers teachers in public schools may be  
8 applied solely for the purpose of determining eligibility to retire  
9 under RCW 41.32.470.  
10 (viii) The department shall adopt rules implementing this  
11 subsection.  
12 (27) "Service credit year" means an accumulation of months of  
13 service credit which is equal to one when divided by twelve.  
14 (28) "Service credit month" means a full service credit month or an  
15 accumulation of partial service credit months that are equal to one.  
16 (29) "Teacher" means any person qualified to teach who is engaged  
17 by a public school in an instructional, administrative, or supervisory  
18 capacity. The term includes state, educational service district, and  
19 school district superintendents and their assistants and all employees  
20 certificated by the superintendent of public instruction; and in  
21 addition thereto any full time school doctor who is employed by a  
22 public school and renders service of an instructional or educational  
23 nature.  
24 (30) "Average final compensation" for plan 2 and plan 3 members,  
25 means the member's average earnable compensation of the highest  
26 consecutive sixty service credit months prior to such member's  
27 retirement, termination, or death. Periods constituting authorized  
28 leaves of absence may not be used in the calculation of average final  
29 compensation except under RCW 41.32.810(2).  
30 (31) "Retiree" means any person who has begun accruing a retirement  
31 allowance or other benefit provided by this chapter resulting from  
32 service rendered to an employer while a member.  
33 (32) "Department" means the department of retirement systems  
34 created in chapter 41.50 RCW.  
35 (33) "Director" means the director of the department.

1 (34) "State elective position" means any position held by any  
2 person elected or appointed to statewide office or elected or appointed  
3 as a member of the legislature.

4 (35) "State actuary" or "actuary" means the person appointed  
5 pursuant to RCW 44.44.010(2).

6 (36) "Substitute teacher" means:

7 (a) A teacher who is hired by an employer to work as a temporary  
8 teacher, except for teachers who are annual contract employees of an  
9 employer and are guaranteed a minimum number of hours; or

10 (b) Teachers who either (i) work in ineligible positions for more  
11 than one employer or (ii) work in an ineligible position or positions  
12 together with an eligible position.

13 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
14 through September 1, 1991, means a position which normally requires two  
15 or more uninterrupted months of creditable service during September  
16 through August of the following year.

17 (b) "Eligible position" for plan 2 and plan 3 on and after  
18 September 1, 1991, means a position that, as defined by the employer,  
19 normally requires five or more months of at least seventy hours of  
20 earnable compensation during September through August of the following  
21 year.

22 (c) For purposes of this chapter an employer shall not define  
23 "position" in such a manner that an employee's monthly work for that  
24 employer is divided into more than one position.

25 (d) The elected position of the superintendent of public  
26 instruction is an eligible position.

27 (38) "Plan 1" means the teachers' retirement system, plan 1  
28 providing the benefits and funding provisions covering persons who  
29 first became members of the system prior to October 1, 1977.

30 (39) "Plan 2" means the teachers' retirement system, plan 2  
31 providing the benefits and funding provisions covering persons who  
32 first became members of the system on and after October 1, 1977, and  
33 prior to July 1, 1996.

34 (40) "Plan 3" means the teachers' retirement system, plan 3  
35 providing the benefits and funding provisions covering persons who

1 first become members of the system on and after July 1, 1996, or who  
2 transfer under RCW 41.32.817.

3 (41) "Index" means, for any calendar year, that year's annual  
4 average consumer price index, Seattle, Washington area, for urban wage  
5 earners and clerical workers, all items compiled by the bureau of labor  
6 statistics, United States department of labor.

7 (42) "Index A" means the index for the year prior to the  
8 determination of a postretirement adjustment.

9 (43) "Index B" means the index for the year prior to index A.

10 (44) "Index year" means the earliest calendar year in which the  
11 index is more than sixty percent of index A.

12 (45) "Adjustment ratio" means the value of index A divided by index  
13 B.

14 (46) "Annual increase" means, initially, fifty-nine cents per month  
15 per year of service which amount shall be increased each July 1st by  
16 three percent, rounded to the nearest cent.

17 (47) "Member account" or "member's account" for purposes of plan 3  
18 means the sum of the contributions and earnings on behalf of the member  
19 in the defined contribution portion of plan 3.

20 (48) "Separation from service or employment" occurs when a person  
21 has terminated all employment with an employer. Separation from  
22 service or employment does not occur, and if claimed by an employer or  
23 employee may be a violation of RCW 41.32.055, when an employee and  
24 employer have a written or oral agreement to resume employment with the  
25 same employer following termination. Mere expressions or inquiries  
26 about post-retirement employment by an employer or employee that do not  
27 constitute a commitment to re-employ the employee after retirement is  
28 not an agreement under this subsection that prevents separation from  
29 service occurring.

30 (49) "Employed" or "employee" means a person who is providing  
31 services for compensation to an employer, unless the person is free  
32 from the employer's direction and control over the performance of work.  
33 The department shall adopt rules and interpret this subsection  
34 consistent with common law.

1       **Sec. 2.** RCW 41.32.055 and 2003 c 53 s 218 are each amended to read  
2 as follows:

3       (1) Any person who shall knowingly make false statements or shall  
4 falsify or permit to be falsified any record or records of the  
5 retirement system, except as specified in subsection (2) of this  
6 section, in any attempt to defraud such system as a result of such act,  
7 is guilty of a class B felony punishable according to chapter 9A.20  
8 RCW.

9       (2) Any person who shall knowingly make false statements or shall  
10 falsify or permit to be falsified any record or records of the  
11 retirement systems related to a member's separation from service and  
12 qualification for a retirement allowance under RCW 41.32.480 in any  
13 attempt to defraud such system as a result of such act, is guilty of a  
14 gross misdemeanor. Mere expressions or inquiries about post-retirement  
15 employment by an employer or employee that do not constitute a  
16 commitment to re-employ the employee after retirement do not constitute  
17 an agreement under this subsection.

18       **Sec. 3.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read  
19 as follows:

20       (1)(a) If a retiree enters employment with an employer sooner than  
21 one calendar month after his or her accrual date, the retiree's monthly  
22 retirement allowance will be reduced by five and one-half percent for  
23 every seven hours worked during that month. This reduction will be  
24 applied each month until the retiree remains absent from employment  
25 with an employer for one full calendar month.

26       (b) The benefit reduction provided in (a) of this subsection will  
27 accrue for a maximum of one hundred forty hours per month. Any monthly  
28 benefit reduction over one hundred percent will be applied to the  
29 benefit the retiree is eligible to receive in subsequent months.

30       (2) Except as provided in subsection (3) of this section, any  
31 retired teacher or retired administrator who enters service in any  
32 public educational institution in Washington state ((and who has  
33 satisfied the break in employment requirement of subsection (1) of this  
34 section)) at least one calendar month after his or her accrual date  
35 shall cease to receive pension payments while engaged in such service,

1 after the retiree has rendered service for more than (~~one thousand~~  
2 ~~five hundred~~) eight hundred sixty-seven hours in a school year.

3 (3) Any retired teacher or retired administrator who enters service  
4 in any public educational institution in Washington state one and one-  
5 half calendar months or more after his or her accrual date and:

6 (a) Is hired into a position for which the school board has  
7 documented a justifiable need to hire a retiree into the position;

8 (b) Is hired through the established process for the position with  
9 the approval of the school board of the prospective employer;

10 (c) The employer retains records of the procedures followed an the  
11 decisions made in hiring the retired teacher or retired administrator  
12 and provides those records in the event of an audit; and

13 (d) The employee has not already rendered a cumulative total of  
14 more than three thousand one hundred sixty-five hours of service as  
15 while receiving pension payments beyond an annual threshold of eight  
16 hundred sixty-seven hours;

17 shall cease to receive pension payments while engaged in that service  
18 after the retiree has rendered service for more than one thousand five  
19 hundred hours in a school year. The cumulative total limitations under  
20 ths subsection apply prospectively after the effective date of this  
21 act.

22 (4) When a retired teacher or administrator renders service beyond  
23 eight hundred sixty-seven hours, the department shall collect from the  
24 employer the applicable employer retirement contributions for the  
25 entire duration of the member's employment during that fiscal year.

26 (3) The department shall collect and provide the state actuary with  
27 information relevant to the use of this section for the select  
28 committee on pension policy.

29 (4) The legislature reserves the right to amend or repeal this  
30 section in the future and no member or beneficiary has a contractual  
31 right to be employed for more than (~~five hundred twenty-five~~) eight  
32 hundred sixty-seven hours per year without a reduction of his or her  
33 pension.

34 **Sec. 4.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read  
35 as follows:

1 As used in this chapter, unless a different meaning is plainly  
2 required by the context:

3 (1) "Retirement system" means the public employees' retirement  
4 system provided for in this chapter.

5 (2) "Department" means the department of retirement systems created  
6 in chapter 41.50 RCW.

7 (3) "State treasurer" means the treasurer of the state of  
8 Washington.

9 (4)(a) "Employer" for plan 1 members, means every branch,  
10 department, agency, commission, board, and office of the state, any  
11 political subdivision or association of political subdivisions of the  
12 state admitted into the retirement system, and legal entities  
13 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
14 term shall also include any labor guild, association, or organization  
15 the membership of a local lodge or division of which is comprised of at  
16 least forty percent employees of an employer (other than such labor  
17 guild, association, or organization) within this chapter. The term may  
18 also include any city of the first class that has its own retirement  
19 system.

20 (b) "Employer" for plan 2 and plan 3 members, means every branch,  
21 department, agency, commission, board, and office of the state, and any  
22 political subdivision and municipal corporation of the state admitted  
23 into the retirement system, including public agencies created pursuant  
24 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
25 31, 2000, school districts and educational service districts will no  
26 longer be employers for the public employees' retirement system plan 2.

27 (5) "Member" means any employee included in the membership of the  
28 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
29 does not prohibit a person otherwise eligible for membership in the  
30 retirement system from establishing such membership effective when he  
31 or she first entered an eligible position.

32 (6) "Original member" of this retirement system means:

33 (a) Any person who became a member of the system prior to April 1,  
34 1949;

1 (b) Any person who becomes a member through the admission of an  
2 employer into the retirement system on and after April 1, 1949, and  
3 prior to April 1, 1951;

4 (c) Any person who first becomes a member by securing employment  
5 with an employer prior to April 1, 1951, provided the member has  
6 rendered at least one or more years of service to any employer prior to  
7 October 1, 1947;

8 (d) Any person who first becomes a member through the admission of  
9 an employer into the retirement system on or after April 1, 1951,  
10 provided, such person has been in the regular employ of the employer  
11 for at least six months of the twelve-month period preceding the said  
12 admission date;

13 (e) Any member who has restored all contributions that may have  
14 been withdrawn as provided by RCW 41.40.150 and who on the effective  
15 date of the individual's retirement becomes entitled to be credited  
16 with ten years or more of membership service except that the provisions  
17 relating to the minimum amount of retirement allowance for the member  
18 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
19 apply to the member;

20 (f) Any member who has been a contributor under the system for two  
21 or more years and who has restored all contributions that may have been  
22 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
23 the individual's retirement has rendered five or more years of service  
24 for the state or any political subdivision prior to the time of the  
25 admission of the employer into the system; except that the provisions  
26 relating to the minimum amount of retirement allowance for the member  
27 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
28 apply to the member.

29 (7) "New member" means a person who becomes a member on or after  
30 April 1, 1949, except as otherwise provided in this section.

31 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
32 or wages earned during a payroll period for personal services and where  
33 the compensation is not all paid in money, maintenance compensation  
34 shall be included upon the basis of the schedules established by the  
35 member's employer.

1 (i) "Compensation earnable" for plan 1 members also includes the  
2 following actual or imputed payments, which are not paid for personal  
3 services:

4 (A) Retroactive payments to an individual by an employer on  
5 reinstatement of the employee in a position, or payments by an employer  
6 to an individual in lieu of reinstatement in a position which are  
7 awarded or granted as the equivalent of the salary or wage which the  
8 individual would have earned during a payroll period shall be  
9 considered compensation earnable and the individual shall receive the  
10 equivalent service credit;

11 (B) If a leave of absence is taken by an individual for the purpose  
12 of serving in the state legislature, the salary which would have been  
13 received for the position from which the leave of absence was taken,  
14 shall be considered as compensation earnable if the employee's  
15 contribution is paid by the employee and the employer's contribution is  
16 paid by the employer or employee;

17 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
18 72.09.240;

19 (D) Compensation that a member would have received but for a  
20 disability occurring in the line of duty only as authorized by RCW  
21 41.40.038;

22 (E) Compensation that a member receives due to participation in the  
23 leave sharing program only as authorized by RCW 41.04.650 through  
24 41.04.670; and

25 (F) Compensation that a member receives for being in standby  
26 status. For the purposes of this section, a member is in standby  
27 status when not being paid for time actually worked and the employer  
28 requires the member to be prepared to report immediately for work, if  
29 the need arises, although the need may not arise.

30 (ii) "Compensation earnable" does not include:

31 (A) Remuneration for unused sick leave authorized under RCW  
32 41.04.340, 28A.400.210, or 28A.310.490;

33 (B) Remuneration for unused annual leave in excess of thirty days  
34 as authorized by RCW 43.01.044 and 43.01.041.

35 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
36 salaries or wages earned by a member during a payroll period for

1 personal services, including overtime payments, and shall include wages  
2 and salaries deferred under provisions established pursuant to sections  
3 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
4 shall exclude nonmoney maintenance compensation and lump sum or other  
5 payments for deferred annual sick leave, unused accumulated vacation,  
6 unused accumulated annual leave, or any form of severance pay.

7 "Compensation earnable" for plan 2 and plan 3 members also includes  
8 the following actual or imputed payments, which are not paid for  
9 personal services:

10 (i) Retroactive payments to an individual by an employer on  
11 reinstatement of the employee in a position, or payments by an employer  
12 to an individual in lieu of reinstatement in a position which are  
13 awarded or granted as the equivalent of the salary or wage which the  
14 individual would have earned during a payroll period shall be  
15 considered compensation earnable to the extent provided above, and the  
16 individual shall receive the equivalent service credit;

17 (ii) In any year in which a member serves in the legislature, the  
18 member shall have the option of having such member's compensation  
19 earnable be the greater of:

20 (A) The compensation earnable the member would have received had  
21 such member not served in the legislature; or

22 (B) Such member's actual compensation earnable received for  
23 nonlegislative public employment and legislative service combined. Any  
24 additional contributions to the retirement system required because  
25 compensation earnable under (b)(ii)(A) of this subsection is greater  
26 than compensation earnable under (b)(ii)(B) of this subsection shall be  
27 paid by the member for both member and employer contributions;

28 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
29 and 72.09.240;

30 (iv) Compensation that a member would have received but for a  
31 disability occurring in the line of duty only as authorized by RCW  
32 41.40.038;

33 (v) Compensation that a member receives due to participation in the  
34 leave sharing program only as authorized by RCW 41.04.650 through  
35 41.04.670; and

1 (vi) Compensation that a member receives for being in standby  
2 status. For the purposes of this section, a member is in standby  
3 status when not being paid for time actually worked and the employer  
4 requires the member to be prepared to report immediately for work, if  
5 the need arises, although the need may not arise.

6 (9)(a) "Service" for plan 1 members, except as provided in RCW  
7 41.40.088, means periods of employment in an eligible position or  
8 positions for one or more employers rendered to any employer for which  
9 compensation is paid, and includes time spent in office as an elected  
10 or appointed official of an employer. Compensation earnable earned in  
11 full time work for seventy hours or more in any given calendar month  
12 shall constitute one service credit month except as provided in RCW  
13 41.40.088. Compensation earnable earned for less than seventy hours in  
14 any calendar month shall constitute one-quarter service credit month of  
15 service except as provided in RCW 41.40.088. Only service credit  
16 months and one-quarter service credit months shall be counted in the  
17 computation of any retirement allowance or other benefit provided for  
18 in this chapter. Any fraction of a year of service shall be taken into  
19 account in the computation of such retirement allowance or benefits.  
20 Time spent in standby status, whether compensated or not, is not  
21 service.

22 (i) Service by a state employee officially assigned by the state on  
23 a temporary basis to assist another public agency, shall be considered  
24 as service as a state employee: PROVIDED, That service to any other  
25 public agency shall not be considered service as a state employee if  
26 such service has been used to establish benefits in any other public  
27 retirement system.

28 (ii) An individual shall receive no more than a total of twelve  
29 service credit months of service during any calendar year. If an  
30 individual is employed in an eligible position by one or more employers  
31 the individual shall receive no more than one service credit month  
32 during any calendar month in which multiple service for seventy or more  
33 hours is rendered.

34 (iii) A school district employee may count up to forty-five days of  
35 sick leave as creditable service solely for the purpose of determining  
36 eligibility to retire under RCW 41.40.180 as authorized by RCW

1 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
2 28A.400.300 is equal to two service credit months. Use of less than  
3 forty-five days of sick leave is creditable as allowed under this  
4 subsection as follows:

5 (A) Less than twenty-two days equals one-quarter service credit  
6 month;

7 (B) Twenty-two days equals one service credit month;

8 (C) More than twenty-two days but less than forty-five days equals  
9 one and one-quarter service credit month.

10 (b) "Service" for plan 2 and plan 3 members, means periods of  
11 employment by a member in an eligible position or positions for one or  
12 more employers for which compensation earnable is paid. Compensation  
13 earnable earned for ninety or more hours in any calendar month shall  
14 constitute one service credit month except as provided in RCW  
15 41.40.088. Compensation earnable earned for at least seventy hours but  
16 less than ninety hours in any calendar month shall constitute one-half  
17 service credit month of service. Compensation earnable earned for less  
18 than seventy hours in any calendar month shall constitute one-quarter  
19 service credit month of service. Time spent in standby status, whether  
20 compensated or not, is not service.

21 Any fraction of a year of service shall be taken into account in  
22 the computation of such retirement allowance or benefits.

23 (i) Service in any state elective position shall be deemed to be  
24 full time service, except that persons serving in state elective  
25 positions who are members of the Washington school employees'  
26 retirement system, teachers' retirement system, public safety  
27 employees' retirement system, or law enforcement officers' and fire  
28 fighters' retirement system at the time of election or appointment to  
29 such position may elect to continue membership in the Washington school  
30 employees' retirement system, teachers' retirement system, public  
31 safety employees' retirement system, or law enforcement officers' and  
32 fire fighters' retirement system.

33 (ii) A member shall receive a total of not more than twelve service  
34 credit months of service for such calendar year. If an individual is  
35 employed in an eligible position by one or more employers the  
36 individual shall receive no more than one service credit month during

1 any calendar month in which multiple service for ninety or more hours  
2 is rendered.

3 (iii) Up to forty-five days of sick leave may be creditable as  
4 service solely for the purpose of determining eligibility to retire  
5 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
6 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
7 to two service credit months. Use of less than forty-five days of sick  
8 leave is creditable as allowed under this subsection as follows:

9 (A) Less than eleven days equals one-quarter service credit month;

10 (B) Eleven or more days but less than twenty-two days equals one-  
11 half service credit month;

12 (C) Twenty-two days equals one service credit month;

13 (D) More than twenty-two days but less than thirty-three days  
14 equals one and one-quarter service credit month;

15 (E) Thirty-three or more days but less than forty-five days equals  
16 one and one-half service credit month.

17 (10) "Service credit year" means an accumulation of months of  
18 service credit which is equal to one when divided by twelve.

19 (11) "Service credit month" means a month or an accumulation of  
20 months of service credit which is equal to one.

21 (12) "Prior service" means all service of an original member  
22 rendered to any employer prior to October 1, 1947.

23 (13) "Membership service" means:

24 (a) All service rendered, as a member, after October 1, 1947;

25 (b) All service after October 1, 1947, to any employer prior to the  
26 time of its admission into the retirement system for which member and  
27 employer contributions, plus interest as required by RCW 41.50.125,  
28 have been paid under RCW 41.40.056 or 41.40.057;

29 (c) Service not to exceed six consecutive months of probationary  
30 service rendered after April 1, 1949, and prior to becoming a member,  
31 in the case of any member, upon payment in full by such member of the  
32 total amount of the employer's contribution to the retirement fund  
33 which would have been required under the law in effect when such  
34 probationary service was rendered if the member had been a member  
35 during such period, except that the amount of the employer's

1 contribution shall be calculated by the director based on the first  
2 month's compensation earnable as a member;

3 (d) Service not to exceed six consecutive months of probationary  
4 service, rendered after October 1, 1947, and before April 1, 1949, and  
5 prior to becoming a member, in the case of any member, upon payment in  
6 full by such member of five percent of such member's salary during said  
7 period of probationary service, except that the amount of the  
8 employer's contribution shall be calculated by the director based on  
9 the first month's compensation earnable as a member.

10 (14)(a) "Beneficiary" for plan 1 members, means any person in  
11 receipt of a retirement allowance, pension or other benefit provided by  
12 this chapter.

13 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
14 in receipt of a retirement allowance or other benefit provided by this  
15 chapter resulting from service rendered to an employer by another  
16 person.

17 (15) "Regular interest" means such rate as the director may  
18 determine.

19 (16) "Accumulated contributions" means the sum of all contributions  
20 standing to the credit of a member in the member's individual account,  
21 including any amount paid under RCW 41.50.165(2), together with the  
22 regular interest thereon.

23 (17)(a) "Average final compensation" for plan 1 members, means the  
24 annual average of the greatest compensation earnable by a member during  
25 any consecutive two year period of service credit months for which  
26 service credit is allowed; or if the member has less than two years of  
27 service credit months then the annual average compensation earnable  
28 during the total years of service for which service credit is allowed.

29 (b) "Average final compensation" for plan 2 and plan 3 members,  
30 means the member's average compensation earnable of the highest  
31 consecutive sixty months of service credit months prior to such  
32 member's retirement, termination, or death. Periods constituting  
33 authorized leaves of absence may not be used in the calculation of  
34 average final compensation except under RCW 41.40.710(2).

35 (18) "Final compensation" means the annual rate of compensation  
36 earnable by a member at the time of termination of employment.

1       (19) "Annuity" means payments for life derived from accumulated  
2 contributions of a member. All annuities shall be paid in monthly  
3 installments.

4       (20) "Pension" means payments for life derived from contributions  
5 made by the employer. All pensions shall be paid in monthly  
6 installments.

7       (21) "Retirement allowance" means the sum of the annuity and the  
8 pension.

9       (22) "Employee" or "employed" means a person who is providing  
10 services for compensation to an employer, unless the person is free  
11 from the employer's direction and control over the performance of work.  
12 The department shall adopt rules and interpret this subsection  
13 consistent with common law.

14       (23) "Actuarial equivalent" means a benefit of equal value when  
15 computed upon the basis of such mortality and other tables as may be  
16 adopted by the director.

17       (24) "Retirement" means withdrawal from active service with a  
18 retirement allowance as provided by this chapter.

19       (25) "Eligible position" means:

20       (a) Any position that, as defined by the employer, normally  
21 requires five or more months of service a year for which regular  
22 compensation for at least seventy hours is earned by the occupant  
23 thereof. For purposes of this chapter an employer shall not define  
24 "position" in such a manner that an employee's monthly work for that  
25 employer is divided into more than one position;

26       (b) Any position occupied by an elected official or person  
27 appointed directly by the governor, or appointed by the chief justice  
28 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
29 compensation is paid.

30       (26) "Ineligible position" means any position which does not  
31 conform with the requirements set forth in subsection (25) of this  
32 section.

33       (27) "Leave of absence" means the period of time a member is  
34 authorized by the employer to be absent from service without being  
35 separated from membership.

1 (28) "Totally incapacitated for duty" means total inability to  
2 perform the duties of a member's employment or office or any other work  
3 for which the member is qualified by training or experience.

4 (29) "Retiree" means any person who has begun accruing a retirement  
5 allowance or other benefit provided by this chapter resulting from  
6 service rendered to an employer while a member.

7 (30) "Director" means the director of the department.

8 (31) "State elective position" means any position held by any  
9 person elected or appointed to statewide office or elected or appointed  
10 as a member of the legislature.

11 (32) "State actuary" or "actuary" means the person appointed  
12 pursuant to RCW 44.44.010(2).

13 (33) "Plan 1" means the public employees' retirement system, plan  
14 1 providing the benefits and funding provisions covering persons who  
15 first became members of the system prior to October 1, 1977.

16 (34) "Plan 2" means the public employees' retirement system, plan  
17 2 providing the benefits and funding provisions covering persons who  
18 first became members of the system on and after October 1, 1977, and  
19 are not included in plan 3.

20 (35) "Plan 3" means the public employees' retirement system, plan  
21 3 providing the benefits and funding provisions covering persons who:

22 (a) First become a member on or after:

23 (i) March 1, 2002, and are employed by a state agency or institute  
24 of higher education and who did not choose to enter plan 2; or

25 (ii) September 1, 2002, and are employed by other than a state  
26 agency or institute of higher education and who did not choose to enter  
27 plan 2; or

28 (b) Transferred to plan 3 under RCW 41.40.795.

29 (36) "Index" means, for any calendar year, that year's annual  
30 average consumer price index, Seattle, Washington area, for urban wage  
31 earners and clerical workers, all items, compiled by the bureau of  
32 labor statistics, United States department of labor.

33 (37) "Index A" means the index for the year prior to the  
34 determination of a postretirement adjustment.

35 (38) "Index B" means the index for the year prior to index A.

1 (39) "Index year" means the earliest calendar year in which the  
2 index is more than sixty percent of index A.

3 (40) "Adjustment ratio" means the value of index A divided by index  
4 B.

5 (41) "Annual increase" means, initially, fifty-nine cents per month  
6 per year of service which amount shall be increased each July 1st by  
7 three percent, rounded to the nearest cent.

8 (42) "Separation from service" occurs when a person has terminated  
9 all employment with an employer. Separation from service or employment  
10 does not occur, and if claimed by an employer or employee may be a  
11 violation of RCW 41.40.055, when an employee and employer have a  
12 written or oral agreement to resume employment with the same employer  
13 following termination. Mere expressions or inquiries about post-  
14 retirement employment by an employer or employee that do not constitute  
15 a commitment to re-employ the employee after retirement is not an  
16 agreement under this subsection that prevents separation from service  
17 from occurring.

18 (43) "Member account" or "member's account" for purposes of plan 3  
19 means the sum of the contributions and earnings on behalf of the member  
20 in the defined contribution portion of plan 3.

21 **Sec. 5.** RCW 41.40.055 and 1947 c 274 s 41 are each amended to read  
22 as follows:

23 (1) Any person who shall knowingly make any false statements, or  
24 shall falsify or permit to be falsified any record or records of this  
25 retirement system, except as specified in subsection (2) of this  
26 section, in any attempt to defraud the retirement system as a result of  
27 such act, shall be guilty of a gross misdemeanor.

28 (2) Any person who shall knowingly make false statements or shall  
29 falsify or permit to be falsified any record or records of the  
30 retirement systems related to a member's separation from service and  
31 qualification for a retirement allowance under RCW 41.40.180 in any  
32 attempt to defraud such system as a result of such act, is guilty of a  
33 gross misdemeanor.

--- END ---

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HOUSE BILL 2640

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Bailey, Sehlin, Miloscia, Roach, Boldt, Tom, Talcott, Mielke, McMahan, Holmquist and Schindler

Read first time 01/19/2004. Referred to Committee on Appropriations.

1       AN ACT Relating to teachers' retirement system plan 1  
2 postretirement employment; and amending RCW 41.32.010 and 41.32.570.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4       **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
5 as follows:

6       As used in this chapter, unless a different meaning is plainly  
7 required by the context:

8       (1)(a) "Accumulated contributions" for plan 1 members, means the  
9 sum of all regular annuity contributions and, except for the purpose of  
10 withdrawal at the time of retirement, any amount paid under RCW  
11 41.50.165(2) with regular interest thereon.

12       (b) "Accumulated contributions" for plan 2 members, means the sum  
13 of all contributions standing to the credit of a member in the member's  
14 individual account, including any amount paid under RCW 41.50.165(2),  
15 together with the regular interest thereon.

16       (2) "Actuarial equivalent" means a benefit of equal value when  
17 computed upon the basis of such mortality tables and regulations as  
18 shall be adopted by the director and regular interest.

1       (3) "Annuity" means the moneys payable per year during life by  
2 reason of accumulated contributions of a member.

3       (4) "Member reserve" means the fund in which all of the accumulated  
4 contributions of members are held.

5       (5)(a) "Beneficiary" for plan 1 members, means any person in  
6 receipt of a retirement allowance or other benefit provided by this  
7 chapter.

8       (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
9 in receipt of a retirement allowance or other benefit provided by this  
10 chapter resulting from service rendered to an employer by another  
11 person.

12       (6) "Contract" means any agreement for service and compensation  
13 between a member and an employer.

14       (7) "Creditable service" means membership service plus prior  
15 service for which credit is allowable. This subsection shall apply  
16 only to plan 1 members.

17       (8) "Dependent" means receiving one-half or more of support from a  
18 member.

19       (9) "Disability allowance" means monthly payments during  
20 disability. This subsection shall apply only to plan 1 members.

21       (10)(a) "Earnable compensation" for plan 1 members, means:

22       (i) All salaries and wages paid by an employer to an employee  
23 member of the retirement system for personal services rendered during  
24 a fiscal year. In all cases where compensation includes maintenance  
25 the employer shall fix the value of that part of the compensation not  
26 paid in money.

27       (ii) For an employee member of the retirement system teaching in an  
28 extended school year program, two consecutive extended school years, as  
29 defined by the employer school district, may be used as the annual  
30 period for determining earnable compensation in lieu of the two fiscal  
31 years.

32       (iii) "Earnable compensation" for plan 1 members also includes the  
33 following actual or imputed payments, which are not paid for personal  
34 services:

35       (A) Retroactive payments to an individual by an employer on  
36 reinstatement of the employee in a position, or payments by an employer  
37 to an individual in lieu of reinstatement in a position which are  
38 awarded or granted as the equivalent of the salary or wages which the

1 individual would have earned during a payroll period shall be  
2 considered earnable compensation and the individual shall receive the  
3 equivalent service credit.

4 (B) If a leave of absence, without pay, is taken by a member for  
5 the purpose of serving as a member of the state legislature, and such  
6 member has served in the legislature five or more years, the salary  
7 which would have been received for the position from which the leave of  
8 absence was taken shall be considered as compensation earnable if the  
9 employee's contribution thereon is paid by the employee. In addition,  
10 where a member has been a member of the state legislature for five or  
11 more years, earnable compensation for the member's two highest  
12 compensated consecutive years of service shall include a sum not to  
13 exceed thirty-six hundred dollars for each of such two consecutive  
14 years, regardless of whether or not legislative service was rendered  
15 during those two years.

16 (iv) For members employed less than full time under written  
17 contract with a school district, or community college district, in an  
18 instructional position, for which the member receives service credit of  
19 less than one year in all of the years used to determine the earnable  
20 compensation used for computing benefits due under RCW 41.32.497,  
21 41.32.498, and 41.32.520, the member may elect to have earnable  
22 compensation defined as provided in RCW 41.32.345. For the purposes of  
23 this subsection, the term "instructional position" means a position in  
24 which more than seventy-five percent of the member's time is spent as  
25 a classroom instructor (including office hours), a librarian, or a  
26 counselor. Earnable compensation shall be so defined only for the  
27 purpose of the calculation of retirement benefits and only as necessary  
28 to insure that members who receive fractional service credit under RCW  
29 41.32.270 receive benefits proportional to those received by members  
30 who have received full-time service credit.

31 (v) "Earnable compensation" does not include:

32 (A) Remuneration for unused sick leave authorized under RCW  
33 41.04.340, 28A.400.210, or 28A.310.490;

34 (B) Remuneration for unused annual leave in excess of thirty days  
35 as authorized by RCW 43.01.044 and 43.01.041.

36 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
37 salaries or wages earned by a member during a payroll period for  
38 personal services, including overtime payments, and shall include wages

1 and salaries deferred under provisions established pursuant to sections  
2 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
3 shall exclude lump sum payments for deferred annual sick leave, unused  
4 accumulated vacation, unused accumulated annual leave, or any form of  
5 severance pay.

6 "Earnable compensation" for plan 2 and plan 3 members also includes  
7 the following actual or imputed payments which, except in the case of  
8 (b)(ii)(B) of this subsection, are not paid for personal services:

9 (i) Retroactive payments to an individual by an employer on  
10 reinstatement of the employee in a position or payments by an employer  
11 to an individual in lieu of reinstatement in a position which are  
12 awarded or granted as the equivalent of the salary or wages which the  
13 individual would have earned during a payroll period shall be  
14 considered earnable compensation, to the extent provided above, and the  
15 individual shall receive the equivalent service credit.

16 (ii) In any year in which a member serves in the legislature the  
17 member shall have the option of having such member's earnable  
18 compensation be the greater of:

19 (A) The earnable compensation the member would have received had  
20 such member not served in the legislature; or

21 (B) Such member's actual earnable compensation received for  
22 teaching and legislative service combined. Any additional  
23 contributions to the retirement system required because compensation  
24 earnable under (b)(ii)(A) of this subsection is greater than  
25 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
26 by the member for both member and employer contributions.

27 (11) "Employer" means the state of Washington, the school district,  
28 or any agency of the state of Washington by which the member is paid.

29 (12) "Fiscal year" means a year which begins July 1st and ends June  
30 30th of the following year.

31 (13) "Former state fund" means the state retirement fund in  
32 operation for teachers under chapter 187, Laws of 1923, as amended.

33 (14) "Local fund" means any of the local retirement funds for  
34 teachers operated in any school district in accordance with the  
35 provisions of chapter 163, Laws of 1917 as amended.

36 (15) "Member" means any teacher included in the membership of the  
37 retirement system. Also, any other employee of the public schools who,

1 on July 1, 1947, had not elected to be exempt from membership and who,  
2 prior to that date, had by an authorized payroll deduction, contributed  
3 to the member reserve.

4 (16) "Membership service" means service rendered subsequent to the  
5 first day of eligibility of a person to membership in the retirement  
6 system: PROVIDED, That where a member is employed by two or more  
7 employers the individual shall receive no more than one service credit  
8 month during any calendar month in which multiple service is rendered.  
9 The provisions of this subsection shall apply only to plan 1 members.

10 (17) "Pension" means the moneys payable per year during life from  
11 the pension reserve.

12 (18) "Pension reserve" is a fund in which shall be accumulated an  
13 actuarial reserve adequate to meet present and future pension  
14 liabilities of the system and from which all pension obligations are to  
15 be paid.

16 (19) "Prior service" means service rendered prior to the first date  
17 of eligibility to membership in the retirement system for which credit  
18 is allowable. The provisions of this subsection shall apply only to  
19 plan 1 members.

20 (20) "Prior service contributions" means contributions made by a  
21 member to secure credit for prior service. The provisions of this  
22 subsection shall apply only to plan 1 members.

23 (21) "Public school" means any institution or activity operated by  
24 the state of Washington or any instrumentality or political subdivision  
25 thereof employing teachers, except the University of Washington and  
26 Washington State University.

27 (22) "Regular contributions" means the amounts required to be  
28 deducted from the compensation of a member and credited to the member's  
29 individual account in the member reserve. This subsection shall apply  
30 only to plan 1 members.

31 (23) "Regular interest" means such rate as the director may  
32 determine.

33 (24)(a) "Retirement allowance" for plan 1 members, means monthly  
34 payments based on the sum of annuity and pension, or any optional  
35 benefits payable in lieu thereof.

36 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
37 monthly payments to a retiree or beneficiary as provided in this  
38 chapter.

1 (25) "Retirement system" means the Washington state teachers'  
2 retirement system.

3 (26)(a) "Service" for plan 1 members means the time during which a  
4 member has been employed by an employer for compensation.

5 (i) If a member is employed by two or more employers the individual  
6 shall receive no more than one service credit month during any calendar  
7 month in which multiple service is rendered.

8 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
9 sick leave may be creditable as service solely for the purpose of  
10 determining eligibility to retire under RCW 41.32.470.

11 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
12 state retirement system that covers teachers in public schools may be  
13 applied solely for the purpose of determining eligibility to retire  
14 under RCW 41.32.470.

15 (b) "Service" for plan 2 and plan 3 members, means periods of  
16 employment by a member for one or more employers for which earnable  
17 compensation is earned subject to the following conditions:

18 (i) A member employed in an eligible position or as a substitute  
19 shall receive one service credit month for each month of September  
20 through August of the following year if he or she earns earnable  
21 compensation for eight hundred ten or more hours during that period and  
22 is employed during nine of those months, except that a member may not  
23 receive credit for any period prior to the member's employment in an  
24 eligible position except as provided in RCW 41.32.812 and 41.50.132;

25 (ii) If a member is employed either in an eligible position or as  
26 a substitute teacher for nine months of the twelve month period between  
27 September through August of the following year but earns earnable  
28 compensation for less than eight hundred ten hours but for at least six  
29 hundred thirty hours, he or she will receive one-half of a service  
30 credit month for each month of the twelve month period;

31 (iii) All other members in an eligible position or as a substitute  
32 teacher shall receive service credit as follows:

33 (A) A service credit month is earned in those calendar months where  
34 earnable compensation is earned for ninety or more hours;

35 (B) A half-service credit month is earned in those calendar months  
36 where earnable compensation is earned for at least seventy hours but  
37 less than ninety hours; and

1 (C) A quarter-service credit month is earned in those calendar  
2 months where earnable compensation is earned for less than seventy  
3 hours.

4 (iv) Any person who is a member of the teachers' retirement system  
5 and who is elected or appointed to a state elective position may  
6 continue to be a member of the retirement system and continue to  
7 receive a service credit month for each of the months in a state  
8 elective position by making the required member contributions.

9 (v) When an individual is employed by two or more employers the  
10 individual shall only receive one month's service credit during any  
11 calendar month in which multiple service for ninety or more hours is  
12 rendered.

13 (vi) As authorized by RCW 28A.400.300, up to forty-five days of  
14 sick leave may be creditable as service solely for the purpose of  
15 determining eligibility to retire under RCW 41.32.470. For purposes of  
16 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
17 to two service credit months. Use of less than forty-five days of sick  
18 leave is creditable as allowed under this subsection as follows:

19 (A) Less than eleven days equals one-quarter service credit month;

20 (B) Eleven or more days but less than twenty-two days equals one-  
21 half service credit month;

22 (C) Twenty-two days equals one service credit month;

23 (D) More than twenty-two days but less than thirty-three days  
24 equals one and one-quarter service credit month;

25 (E) Thirty-three or more days but less than forty-five days equals  
26 one and one-half service credit month.

27 (vii) As authorized in RCW 41.32.065, service earned in an out-of-  
28 state retirement system that covers teachers in public schools may be  
29 applied solely for the purpose of determining eligibility to retire  
30 under RCW 41.32.470.

31 (viii) The department shall adopt rules implementing this  
32 subsection.

33 (27) "Service credit year" means an accumulation of months of  
34 service credit which is equal to one when divided by twelve.

35 (28) "Service credit month" means a full service credit month or an  
36 accumulation of partial service credit months that are equal to one.

37 (29) "Teacher" means any person qualified to teach who is engaged  
38 by a public school in an instructional, administrative, or supervisory

1 capacity. The term includes state, educational service district, and  
2 school district superintendents and their assistants and all employees  
3 certificated by the superintendent of public instruction; and in  
4 addition thereto any full time school doctor who is employed by a  
5 public school and renders service of an instructional or educational  
6 nature.

7 (30) "Average final compensation" for plan 2 and plan 3 members,  
8 means the member's average earnable compensation of the highest  
9 consecutive sixty service credit months prior to such member's  
10 retirement, termination, or death. Periods constituting authorized  
11 leaves of absence may not be used in the calculation of average final  
12 compensation except under RCW 41.32.810(2).

13 (31) "Retiree" means any person who has begun accruing a retirement  
14 allowance or other benefit provided by this chapter resulting from  
15 service rendered to an employer while a member.

16 (32) "Department" means the department of retirement systems  
17 created in chapter 41.50 RCW.

18 (33) "Director" means the director of the department.

19 (34) "State elective position" means any position held by any  
20 person elected or appointed to statewide office or elected or appointed  
21 as a member of the legislature.

22 (35) "State actuary" or "actuary" means the person appointed  
23 pursuant to RCW 44.44.010(2).

24 (36) "Substitute teacher" means:

25 (a) A teacher who is hired by an employer to work as a temporary  
26 teacher, except for teachers who are annual contract employees of an  
27 employer and are guaranteed a minimum number of hours; or

28 (b) Teachers who either (i) work in ineligible positions for more  
29 than one employer or (ii) work in an ineligible position or positions  
30 together with an eligible position.

31 (37)(a) "Eligible position" for plan 2 members from June 7, 1990,  
32 through September 1, 1991, means a position which normally requires two  
33 or more uninterrupted months of creditable service during September  
34 through August of the following year.

35 (b) "Eligible position" for plan 2 and plan 3 on and after  
36 September 1, 1991, means a position that, as defined by the employer,  
37 normally requires five or more months of at least seventy hours of

1   earnable compensation during September through August of the following  
2   year.

3       (c) For purposes of this chapter an employer shall not define  
4   "position" in such a manner that an employee's monthly work for that  
5   employer is divided into more than one position.

6       (d) The elected position of the superintendent of public  
7   instruction is an eligible position.

8       (38) "Plan 1" means the teachers' retirement system, plan 1  
9   providing the benefits and funding provisions covering persons who  
10   first became members of the system prior to October 1, 1977.

11       (39) "Plan 2" means the teachers' retirement system, plan 2  
12   providing the benefits and funding provisions covering persons who  
13   first became members of the system on and after October 1, 1977, and  
14   prior to July 1, 1996.

15       (40) "Plan 3" means the teachers' retirement system, plan 3  
16   providing the benefits and funding provisions covering persons who  
17   first become members of the system on and after July 1, 1996, or who  
18   transfer under RCW 41.32.817.

19       (41) "Index" means, for any calendar year, that year's annual  
20   average consumer price index, Seattle, Washington area, for urban wage  
21   earners and clerical workers, all items compiled by the bureau of labor  
22   statistics, United States department of labor.

23       (42) "Index A" means the index for the year prior to the  
24   determination of a postretirement adjustment.

25       (43) "Index B" means the index for the year prior to index A.

26       (44) "Index year" means the earliest calendar year in which the  
27   index is more than sixty percent of index A.

28       (45) "Adjustment ratio" means the value of index A divided by index  
29   B.

30       (46) "Annual increase" means, initially, fifty-nine cents per month  
31   per year of service which amount shall be increased each July 1st by  
32   three percent, rounded to the nearest cent.

33       (47) "Member account" or "member's account" for purposes of plan 3  
34   means the sum of the contributions and earnings on behalf of the member  
35   in the defined contribution portion of plan 3.

36       (48) "Separation from service or employment" occurs when a person  
37   has terminated all employment with an employer.   Separation from

1 service or employment does not occur when an employee and employer have  
2 a written or oral agreement to resume employment with the same employer  
3 following termination.

4 (49) "Employed" or "employee" means a person who is providing  
5 services for compensation to an employer, unless the person is free  
6 from the employer's direction and control over the performance of work.  
7 The department shall adopt rules and interpret this subsection  
8 consistent with common law.

9 **Sec. 2.** RCW 41.32.570 and 2003 c 295 s 6 are each amended to read  
10 as follows:

11 (1)(a) If a retiree enters employment with an employer sooner than  
12 one calendar month after his or her accrual date, the retiree's monthly  
13 retirement allowance will be reduced by five and one-half percent for  
14 every seven hours worked during that month. This reduction will be  
15 applied each month until the retiree remains absent from employment  
16 with an employer for one full calendar month.

17 (b) The benefit reduction provided in (a) of this subsection will  
18 accrue for a maximum of one hundred forty hours per month. Any monthly  
19 benefit reduction over one hundred percent will be applied to the  
20 benefit the retiree is eligible to receive in subsequent months.

21 (2) Except as provided in subsection (3) of this section, any  
22 retired teacher or retired administrator who enters service in any  
23 public educational institution in Washington state ((and who has  
24 satisfied the break in employment requirement of subsection (1) of this  
25 section)) at least one calendar month after his or her accrual date  
26 shall cease to receive pension payments while engaged in such service,  
27 after the retiree has rendered service for more than ((one thousand  
28 five hundred)) eight hundred sixty-seven hours in a school year.

29 (3) Any retired teacher or retired administrator who enters service  
30 in any public educational institution in Washington state one and one-  
31 half calendar months or more after his or her accrual date and:

32 (a) Is hired into a position for which the school board has  
33 documented a justifiable need to hire a retiree into the position;

34 (b) Is hired through the established process for the position with  
35 the approval of the school board of the prospective employer;

36 (c) The employer retains records of the procedures followed and the

1 decisions made in hiring the retired teacher or retired administrator  
2 and provides those records in the event of an audit; and

3 (d) The employee has not already rendered a cumulative total of  
4 more than one thousand nine hundred hours while receiving pension  
5 payments, beyond an annual threshold of eight hundred sixty-seven  
6 hours;

7 shall cease to receive pension payments while engaged in that service  
8 after the retiree has rendered service for more than one thousand five  
9 hundred hours in a school year. The cumulative total limitations under  
10 this subsection apply prospectively from the effective date of this act  
11 to those retiring on and after the effective date of this act and those  
12 who retired prior to the effective date of this act.

13 (4) When a retired teacher or administrator renders service beyond  
14 eight hundred sixty-seven hours, the department shall collect from the  
15 employer (a) the applicable employer retirement contributions, and (b)  
16 additional employer contributions equal to the employee contributions  
17 that would have been made if the retiree was not retired, for the  
18 entire duration of the member's employment during that fiscal year.

19 ~~((+3+))~~ (5) The department shall collect and provide the state  
20 actuary with information relevant to the use of this section for the  
21 select committee on pension policy.

22 ~~((+4+))~~ (6) The legislature reserves the right to amend or repeal  
23 this section in the future and no member or beneficiary has a  
24 contractual right to be employed for more than ((five hundred twenty  
25 five)) eight hundred sixty-seven hours per year without a reduction of  
26 his or her pension.

--- END ---

**Select Committee on Pension Policy**  
**September 7, 2004 – Meeting Planner**  
*(August 9, 2004)*

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**EXECUTIVE COMMITTEE AGENDA**

- (A) Military Service Credit
- (B) SCPP Executive Committee Membership
- (C)

**FULL COMMITTEE AGENDA**

- (1) School District Payroll Reporting?
- (2) Age 65 Retirement
- (3) Retiree Health Insurance
- (4) Pension Funding Council Recommendation